

COLONIAL OFFICE

Native Administration
in the
British African
Territories

by

LORD HAILEY

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Part II. Central Africa:
Zanzibar, Nyasaland,
Northern Rhodesia



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PREFACE TO PART I

IN 1941, following on journeys undertaken in 1939 and 1940, I wrote a Report on the working of the systems of local rule in Africa which was issued for official use under the title of "NATIVE ADMINISTRATION AND POLITICAL DEVELOPMENT IN BRITISH TROPICAL AFRICA." It was suggested in 1947 that I should bring that Report up to date by including a reference to the considerable number of changes which had taken place in the interval since it was written. But a journey undertaken by me in the latter half of 1947 and in the first half of 1948 convinced me that it would not be adequate merely to revise the Report in this manner. The scope of the enquiries made by me in 1939 and 1940 had been restricted by the existence of War conditions; the material was incomplete in respect of certain of the territories; and the changes made in the interval had in some cases involved issues not merely of practice but of policy.

The present Report has therefore been drawn up on a different basis. It is more limited in scope, in that it is confined to matters relating directly to the agencies employed for administrative purposes in local rule, including the creation of institutions of local government, and it refers only indirectly to political or constitutional developments. It is on the other hand more comprehensive, in so far that it embodies a detailed statement of the working of the system adopted in each of the Provincial units comprised in the ten Colonial territories concerned. It gives detailed information on the same scale regarding the procedure for the administration of justice through the native tribunals, and examines the evidence available of changes in the African law and custom which regulates the system of landholding.

The present survey is being issued in four Parts. The first deals with the East African territories, Uganda, Kenya and Tanganyika; the second with Zanzibar and the two Central African territories, Nyasaland and Northern Rhodesia; the third deals with the West African territories, Nigeria, the Gold Coast, Sierra Leone and the Gambia. The problems of a general nature which emerge as the result of the survey are discussed in a final Chapter, issued separately as Part IV. The facts and figures embodied in the survey are in the main those elicited by the local enquiries made in 1947 and 1948, but account has also been taken of any later information that has come to hand at the time of going to Press early in 1950. This has led to some irregularity in the dating of the material, but where so large a number of territories are concerned and local changes are so continuous, it is difficult to achieve uniformity in this respect.

In presenting this considerable volume of factual material, the primary consideration has been to meet the need felt by officers of the African Administrations for information regarding the practice followed in areas other than those with which they are personally acquainted. The development of a viable procedure of local administration involves a continuous process of adjustment to conditions which are not merely of very great diversity, but are being constantly modified in response to social and economic changes. It is here that the experience gained in other areas can be of value; and perhaps the outside observer can render greater service by the systematic collation of

information than by seeking to formulate principles or by offering counsel to those who are actually responsible for taking action. And it is pertinent to add here, that the range of matters with which the information thus provided deals is of more intimate concern to a very large proportion of the African population than is the course of political development or constitutional change.

I am indebted to the Governors of the Colonial territories and to the numerous officers who not only extended their hospitality to me in the course of my enquiries in 1947 and 1948, but have given me the most generous assistance in assembling the material on which this survey is based. I am much indebted also to Mr. A. H. Cox, C.M.G., who accompanied me throughout my journeys and gave me valuable help in collecting and arranging this material. In spite of the assistance I have received from many quarters, it is inevitable that a work involving so much detail should contain many errors, but for them I must take the sole responsibility, and I must add also that any opinions which may be expressed are not those either of the Colonial Governments or the Colonial Office. I am solely responsible for them.

HAILEY

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CHAPTER IV

Zanzibar Protectorate

SECTION I

GENERAL

ZANZIBAR Protectorate is, in constitutional terms, an Arab State with an Arab sovereign, under the protection of the British Government. But "protection" has throughout the Colonial world taken a variety of forms, and in Zanzibar it has involved a system of rule in which concession, agreement and usage have given the British Government a marked ascendancy. Though there is not here any system of Native Administration comparable to that existing in the neighbouring British territories in East Africa, the Zanzibar Protectorate has been included in the present survey partly because of its general interest for students of Colonial affairs, and partly because of the special interest attaching to the method adopted by an Arab State in dealing with the African and other communities included in its population.

Though the combined area of Zanzibar and Pemba Islands is only 1,020 square miles; the density of population, 259 to the square mile, makes the area one of the most densely populated territories of Africa. In the Census of 1948, the population was shown as consisting of 306 Europeans, 42,823 Arabs, 15,475 Indians, 202,112 Africans¹ and 3,520 others. Of this population, 45,275 live in the town of Zanzibar, and the rest are distributed about equally between Pemba and the rural part of Zanzibar Island.²

The economy of the Protectorate is almost entirely agricultural. It was estimated in 1946 that of the 640,000 acres in the Protectorate, 48,000 acres were under clove, 55,000 under coconut, and 275,000 under foodstuffs and pasture, but though the copra industry, based on the coconut, has been of some importance, the whole economy has been dominated by the clove industry. It is the clove which was responsible for the creation of the estates held by Arabs and which was also largely responsible for the development of the position held by Indians as a trading community. One-third of the Government revenue is derived from an export duty on cloves, and most of the remainder from import duties on commodities which are in the main purchased with clove exports. Profitable however as the clove industry has been to Zanzibar, it has long been recognized that so complete a dependence on a single crop is a weakness in its economy, which may have serious possibilities for its future.

¹ African is defined in Decree 14 of 1947 as "a member of an African race or of any tribal community permanently settled in the Protectorate and includes a Swahili but does not include a Comorian or a native of Madagascar or a Somali."

² The area and population of Zanzibar and Pemba separately are as follows :—

	Area in Square Miles	Population	Density per Square Mile
Zanzibar	640	149,377	233·4
Pemba	380	114,859	302·6
	1,020	264,236	259·05

THE ARAB COMMUNITY

The contact of Arabs with Zanzibar is of great antiquity, but the present Arab community has its origin in the garrisons established by the Imam of Muscat and Oman after his capture of Mombasa from the Portuguese in 1698. The Arab population increased in numbers in the eighteenth century, when Zanzibar became one of the chief entrepôts for the export of slaves from East Africa, and again in the nineteenth century, owing to the introduction of the clove industry in Zanzibar by the Sultan Seyyid Said, who ruled between the years 1828 and 1856.

THE INDIAN COMMUNITY

Indian traders had been established on the East African coasts from very early times, and were recorded as having been found at Mombasa by the Portuguese in 1498, but their numbers expanded when Seyyid Said actively encouraged their immigration, partly as a means of marketing the clove and coconut production of the Islands and partly as an agency for financing the expeditions of slave dealers to the mainland.

THE AFRICAN POPULATION

As regards the African population, it would seem from the scanty data available that the indigenous natives of Zanzibar and Pemba were predominantly of African stock, and were drawn from neighbouring tribes on the mainland, from which they arrived over a long period of years in small family or village groups. The Africans as we find them to-day are of two categories—those who have been long settled in the Islands, and those who are either the descendants of former slaves or recent immigrants attracted to the Islands as wage earners on the clove or coconut farms.

In the former category the members of the Wapemba, Watumbatu and Wahadimu tribes are the most prominent, and are the result of a building up process over a considerable time by infiltrations from the mainland. There is, however, little evidence of tribal organization among them of the type common among Bantu people elsewhere, other than the allegiance of enlarged family groups to the village Elders, or the tradition of certain village institutions which existed on the mainland. Thus certain of the Wahadimu groups occupying the southern part of the Zanzibar District preserve a tradition of the existence of the village headman (*mkubwa wa mji*), the village factotum (*mjumbe wa mji*), the trustees of family land rights (*wakuu wa kiyambo*), the custodian of spirit shrines (*mvyale*) and the *Watu Wanne*, the four wise men who formed an advisory council in matters of common concern.

It is of some interest also to note that the development of these African communities was influenced by an early Asiatic immigration, antedating the Arab conquest. The Shirazi from Persia are believed to have arrived in Zanzibar about the tenth century A.D.; there is indeed a mosque at Kizimkazi which bears the date 1107 A.D. It is doubtful what part Zanzibar occupied in the so-called Zenj Empire of the Shirazi on the African Coast, and the Zanzibar Shirazi would appear to have come in small bands, as settler-traders, not as part of an organized movement of conquest. Certain of them who were thus established in the Islands brought the indigenous Africans under administrative control, in so far that tribute and labour was exacted from them, and there is

still a tradition of the existence at this period of figures such as the Mkama Mdume, the ruler of Pemba, the Diwani of the Wapemba, the Waziri or Makata of the Watumbatu, and the Mwinyi Mkuu of the Wahadimu. The term Sheha, headman, was also introduced in this period, supposedly derived from the Persian word Shah.

The term Wa-Shirazi survives to-day, but with a different connotation. When during the subsequent period of Arab rule, Africans of different origin began to arrive from the mainland, the use of the name Wa-Shirazi was adopted as a means by which the older established indigenous groups distinguished themselves from others and particularly from the slave groups or the immigrant wage-earners. In recent years there is, as the result of political awakening, an increasing tendency for Wapemba, Watumbatu and Wahadimu to call themselves Wa-Shirazi in order to emphasize their rights to preferential treatment as the original owners of the soil.¹

The slaves recruited by the Arabs for the clove or coconut plantations were obtained from the tribal hinterland of Africa, and were settled in the plantation belt under the protection of their Arab masters. Earlier African immigrants to a large extent held themselves aloof from this class, and there was little inter-marriage with them, a distinction which is preserved to the present day.

There is therefore to-day little in the nature of tribal cohesion among the Africans, and such memories of tribal institutions as they brought with them have been subject to the disintegrating influence of direct Arab rule and Muslim law. Over 90 per cent. of the Africans in Zanzibar and Pemba are now Muslims, Muslim law is the fundamental law, and Swahili has become the ordinary language of intercourse. The majority of the Muslims are of the Sunni faith, though their orthodoxy in point of doctrine and ritual is open to question. In Zanzibar town, however, most of the Arabs are not Sunni, but belong to the puritan Ibadhi school of Islam brought from Oman by Sayyid Said and his followers and established by them as the State religion of the country.

THE LANDS HELD BY THE DIFFERENT COMMUNITIES

It is not possible to give any accurate figures of the proportion of the land which is now held by the different communities. The Arabs have during the last 150 years possessed themselves of much of the fertile land suitable for cloves and coconuts, these being crops adapted for cultivation originally by slave and afterwards by hired labour. A number of Arab estates (shambas) have in recent years been acquired by Indians, partly in satisfaction of debts incurred by their Arab owners, but partly also as the result of the interest of Indians in the clove and coconut industries. In Zanzibar Island the Wahadimu and to a less extent the Watumbatu have step by step retreated from the more fertile regions to the less fertile coral rag areas in the south-east and north where they are now found.

A very rough estimate made in 1934 gave some indication of the percentage of land held by the three communities, but this varied widely in different areas. In three of the Zanzibar Mudirias, for example, over 90 per cent. was held by Africans; in the four others the shambas held by Arabs and Indians were

¹ For an analysis of tribal figures as shown in the Census of 1931 see Proposals for a Social Survey of Zanzibar, E. Batson, 1946, page 19.

relatively more numerous.¹ But it may be said in general terms that though the more fertile lands in the Protectorate are now held by Arabs and to a less extent by Indians, there is no lack of land available for Africans, though it is usually of inferior quality. On the other hand, the cultivation by Africans of food crops in Arab and Indian estates is usually welcomed by the land-owner as assisting him to keep his land weeded, and hitherto it has not been usual for payment to be made by the cultivator, save for the use of rice land, and that in kind.

¹ Review of systems of Land Tenure in Zanzibar, McGeagh and Addis, Zanzibar Government Press, 1945.

SECTION II

THE PRESENT CONSTITUTIONAL AND ADMINISTRATIVE POSITION

THE AGREEMENT OF 1890

THE modern history of the Protectorate may conveniently be dated from 1861 when Zanzibar and Oman were divided as separate Sultanates, and Seyyid Majid, the brother of the then Sultan of Oman, became Sultan of Zanzibar. In 1886 Britain, France and Germany recognized the sovereignty of his successor, Seyyid Barghash bin Said, over Zanzibar, Pemba and Mafia Islands and over a strip of mainland coastal territory to a depth of ten sea miles from the Rovuma River in the south to the Tana River in the north. North of this again were included the ports of Kismayu, Brava, Merka and Mogadishu.¹ In 1890 Seyyid Ali bin Said (the fourth of Seyyid Said's sons to rule in Zanzibar) placed his dominions under the protection of the British Government.

It is unnecessary to detail here the subsequent series of transactions, in which Germany and Italy as well as Great Britain took part, and which reduced to their present dimension the areas held by the Sultan of Zanzibar. His actual rule is now confined to Zanzibar and Pemba Islands. He remains the titular sovereign of the coastal belt in Kenya, but this is administered as a Protectorate by the Government of Kenya Colony. His flag is flown there, and he is in receipt of annual payments made as the result of the transactions referred to, but he retains no share in the government of that area.

When the Sultan Seyyid Ali bin Said agreed in 1890 to place his dominions under the protection of the British Government, the latter embodied in a formal Agreement the terms on which it assumed the protectorate. The articles of the Agreement were simple.² The relations of Zanzibar with foreign powers were to be conducted under the sole advice and through the channel of the British Government. The latter guaranteed the maintenance of the throne to Seyyid Ali and his successors, and the Sultan was to have the right to nominate his own successor, subject to the approval of the British Government.

THE EXISTING STRUCTURE OF RULE

The existing structure of rule has been built up on the arrangements first initiated by the Foreign Office, which was until 1914 responsible for relations with Zanzibar. A Consul had been appointed at Zanzibar in 1841, pursuant to a Treaty made with the Sultan of Muscat in 1822, but he was subsequently replaced by a Consul General. In 1891 a European officer was appointed as the First Minister to the Sultan, his task being, in the terms used at the time, to bring about the abolition of slavery and to establish a constitutional form of government. In 1914 the control of the Protectorate passed formally from the Foreign Office to the Colonial Office. Legal effect was given to this change by the Zanzibar Order in Council of 1914, under which the offices of

¹ Zanzibar Treaties, (Foreign Office) 1910, page 68.

² Zanzibar Treaties, (Foreign Office) 1910, page 82.

the Consul General and First Minister were merged in that of the newly created post of British Resident, who was to be subject to the control of the Governor of the British East Africa Protectorate as High Commissioner.

In 1924 the jurisdiction to be exercised by the High Commissioner and officers subordinate to him, and the classes of persons who were to be subject to that jurisdiction, were laid down in the Zanzibar Order in Council issued under the Foreign Jurisdiction Act of 1890. Under this Order, the jurisdiction of His Britannic Majesty's Officers was defined as extending over all British subjects, all British protected persons and all foreigners with respect to whom the Sultan had decreed or the Sovereign or Government under whose protection they were had agreed that jurisdiction should be exercised by His Majesty.

It was at the same time provided that the British Resident might countersign any Decree enacted by the Sultan in the exercise of his authority over his dominions, and a Decree so countersigned would become binding also on all the persons above described. In 1925 the post of High Commissioner was abolished, and since that time the British Resident has been directly responsible to the Colonial Office. The Protectorate Council, which had been established in 1914, was replaced in 1926 by Executive and Legislative Councils. The system of rule as it has subsequently developed will best be explained by a description of the status of the Executive and Legislative Councils, and of the part taken in the government of the country by the British Resident and the staff appointed to the Protectorate by the Colonial Office.

THE EXECUTIVE COUNCIL

The Executive Council was established by a Decree of the Sultan, dated 1st March, 1926, and countersigned by the British Resident. It consists of the Sultan as President, the British Resident as Vice-President, the Heir Apparent as member, four ex-officio members (the Chief Secretary, the Attorney General, the Senior Commissioner and the Financial Secretary) and three official members by name, these at present being the European heads of the Departments of Agriculture, Education and Public Health.

The Council is, in form, advisory to the Sultan, but it was laid down that he would consult it in all cases save those in which in his judgment his service would suffer by so doing. He reserved the right to act in opposition to its advice in all cases, including those involving sentences of death.¹ All executive action taken is therefore, in form, the action of the Sultan in Executive Council.²

THE LEGISLATIVE COUNCIL

The Legislative Council was established by a similar Decree dated 28th March, 1926. In this Council the British Resident is President. There are four ex-officio members and three other official members (by name) who are the same as for the Executive Council, with the addition of one other (at present, temporarily, two) European head of a department by name. There are also three Arab, two Indian, two African and one European unofficial members, nominated by the Sultan, thus leaving the official members in the majority. Up to 1946, when the first African seat was created, African interests had been represented by the Senior Commissioner, then known as Provincial Commissioner.

¹ See Amending Decree, No. 12 of 1948.

² See for instance Section 19 of the Decree to Establish Administrative Authority, 14 of 1947.

All projects of legislation require the assent of the Sultan, and it is expressly provided that this may be refused. Laws when passed in the Legislative Council issue as Decrees of the Sultan, but those Decrees which affect interests other than those of the Sultan's own subjects are countersigned by the British Resident under the provisions of Article 24 of the Zanzibar Order in Council, 1924.

THE ADMINISTRATIVE SYSTEM

The form given to these two institutions was clearly intended to pay regard to the tradition of the sovereignty of the Sultan. In the development of the executive system this was perhaps less clearly marked. Under Seyyid Said and his immediate successors an essentially patriarchal organization had been established, consisting of Liwalis (Governors) exercising general administrative functions, Akidas, responsible to the Liwali for maintenance of law and order, Masheha (Headmen) with recognized authority over the African section of the population, and Kadhis responsible for the administration of civil law in accordance with Muslim law, which was recognized as the fundamental law of the land. The jurisdiction of these various authorities was, however, ill-defined and was not embodied in any formal law.

The initial stage of Colonial Office control was marked chiefly by an effort to regularize this form of direct Arab rule and to subject the conduct of local affairs to the supervision of European officers. In 1914, Pemba was divided into three Districts, each under charge of a District Officer, with a District Commissioner in charge of all three Districts. Zanzibar was also divided into three Districts, each under charge of a European District Officer. All these were in charge of a Senior Commissioner, stationed in Zanzibar town.

The District Officers performed the general duties previously undertaken by the Liwalis, who ceased to exercise effective authority, the last Liwali retiring in 1923. Each District was sub-divided into areas under an Arab Akida and again sub-divided into village areas under African Masheha. The District Officers held Criminal and Civil Courts, but the Kadhis continued to function, though only in civil matters regulated by Mahommadan law. The powers of these various authorities were formally defined in the Native Administration and Authority Decree, No. 15 of 1922.

At a later stage, policy took a somewhat different direction, and attention centred on the attempt to introduce some less direct form of rule, mainly with the intention of giving the local population a share in the management of their own affairs. District Courts were set up, the constitution of which was laid down in the Zanzibar Courts (Amendment) Order,¹ the aim being to develop from the mixed racial benches of these Courts a series of Village and District Councils which would deal with native affairs generally. About this time the term Akida was changed to that of Mudir, but the area which he administered (now called a mudiria) and his functions remained essentially unchanged. The District Courts were presided over by the Mudirs; the Masheha had purely administrative functions.

At the same time a Commissioner was appointed "to examine the system of indirect rule as practised in Tanganyika, and to report how far it was suitable to the conditions of the Protectorate. His Report emphasized the difference of the conditions prevailing in Zanzibar and Pemba as compared with the mainland territories. With the exception of the very rudimentary councils of

¹ Government Notice No. 170 of 1929.

Elders (*wazee*), the Africans in the Islands had no indigenous institutions such as were utilized in Tanganyika for the organization of the Native Authority system. While the *Wahadimu*, *Watumbatu* and *Wapemba* might in places form homogeneous groups, there was little sense of tribal cohesion, and in the plantation belt there was a great admixture of African tribes, principally made up of ex-slaves or squatters from a variety of mainland areas. There was a further consideration. In the view of the Commissioner, the position of the Sultan as ruling sovereign made it undesirable to contemplate the creation of a system of local rule which would discriminate between his Arab and African subjects or persons of other races who might have acquired Zanzibar nationality.

No further attempt was therefore made to introduce a system of local rule analogous to that in force in the mainland, and action was for the time confined to the reorganization of the administrative system as it then existed. The Native Administration and Authority Decree of 1922 was replaced by the Provincial Administration and Authority Decree of 1931, which made provision for the appointment of *Mudirs* as authorities in control over the African sections of the population of their *Mudirias*. Various changes were also made in the higher administrative structure, resulting in the reduction of the Districts to five, three being in Pemba (with nine *Mudirias*) and two in Zanzibar (with seven *Mudirias*).

In 1934 the two Provinces were reduced to one, and the Districts to two, namely Zanzibar and Pemba. Meanwhile experience showed that the District Courts, with their mixed racial benches, were failing to fulfil their purpose, since the more prominent local Arab and Indian citizens took little interest in them, and left the *Masheha* to constitute the benches. By 1946 these Courts had ceased to function, and they were replaced by *Mudirial* Courts wherein the *Mudir* was to sit alone, exercising the powers of a third-class Magistrate, with both criminal and civil jurisdiction. This measure marked the first grant of civil jurisdiction to *Mudirs*, and it was made subject to the provision that in civil cases where questions of native law or claims relating to native land arose, the *Mudir* must sit with two specially qualified assessors.¹ The District Commissioner was to supervise these Courts and could suspend their decisions pending a reference to the High Court.²

As it stands to-day the administrative structure consists of a Senior Commissioner for the whole of the territory. In Pemba there is a District Commissioner who has under him at present two European Assistant District Officers and one Assistant District Officer of the Zanzibar Local Higher Civil Service.³ In Zanzibar there is a District Commissioner with one Assistant District Officer of the local Service, but it is intended that when the staff is available there should be two District Commissioners, urban and rural respectively, each with an Assistant District Officer of the local Zanzibar Service. It may be explained here that His Highness's Zanzibar Service was intended to supply educated local men—who are at present Arabs—as assistants in various departments, both technical and administrative. The appointments are made by

¹ "Native" is defined in the District (*Mudirial*) Courts Proclamation of 1947 as including all *Wamhadiu*, *Wapemba*, *Washirazi*, and members of any indigenous African tribes who may be settled in the Protectorate but not including *Swahilis* or persons who derive their descent from immigrants from the Comoro Islands or Madagascar.

² See Gazette Notice 180 dated 18th June, 1946, and the District (*Mudirial*) Courts Proclamation 1947 in Gazette Notice, 4th October, 1947 and also Decree 14 of 1947 which defines the duties and powers of *Mudirs* and *Shehas*.

³ This is the term used in the Gazette Notification, 13th January, 1947. It is now known as His Highness's Zanzibar Service.

the British Resident from among men who are serving in the different Departments, or have completed a course of post-secondary education. Their salary ranges from £200 to £600 a year.

The sixteen rural Mudirias are purely administrative units and do not correspond to tribal or other divisions. Apart from the town of Zanzibar, the appointments are now held by eight Mudirs, some of the posts being combined. In addition to these the town of Zanzibar constitutes a Mudiria in itself. They are at present all Arabs of local families, and are appointed on merit, the majority having the qualification of a senior secondary education. The appointment is made by the Sultan,¹ with the advice of the British Resident.

Mudirs start as Assistant Mudirs on a salary of £60 a year, rising to £144. As full Mudirs their salary rises to £300 a year, and they are entitled to pension at the age of 50. They appear to be competent men, with the traditional air of authority which so often distinguishes people of Arab origin in the coastal areas of East Africa. Though they preside, as already shown, over the Mudiral Courts, their judicial functions are relatively light,² and they are for the most part concerned in the detailed work of local administration. Their powers are exercisable over all persons within their Mudirias.

There are 54 Shehias in Pemba Island and 84 in Zanzibar, but in three cases two have been grouped under one Sheha. They are sometimes described as village headmen, but the areas of which they are in charge are artificial, since the village is not a recognized unit. In very many cases their posts are hereditary, though this would seem to be a matter of practice rather than of principle, and almost invariably the Shehas are selected by a process of public acclaim, subject to the approval of the District Commissioner. They are the local executives of the Mudirs, and their primary duty is declared to be the maintenance of law and order, but it is specially provided that their powers shall be exercisable over Africans only.³ They draw a salary which comes on the average to £19 a year. Since there is in the Protectorate no Hut or Poll tax or similar direct tax, their functions do not include the collection of tax.

THE JUDICIAL ORGANIZATION

The form of the judicial organization indicates, like that of the Executive and Legislative Councils, the duality that underlies the structure of government in the Protectorate. At an early date treaties made with the Sultans—as for instance those of 1822 and 1839—had given the British Government jurisdiction over British subjects resident in Zanzibar and their servants. This jurisdiction was exercised in the first instance by the British Consular Court. Similar rights of Consular jurisdiction were subsequently secured by a number of Foreign Powers.⁴ In 1897 His Britannic Majesty's High Court in Zanzibar was established by Order in Council made under the Foreign Jurisdiction Act 1890. As the result of agreements made by Great Britain with the majority of the foreign Powers concerned, the jurisdiction exercised by their Consuls was handed over to the High Court, and this position was consolidated by the Sultan's Jurisdiction Decree of 1908.

¹ Section 6 of Decree 14 of 1947.

² In the year 1947 there were 297 civil and 1,136 criminal cases filed in the Mudiral Courts.

³ Section 9 of Decree 14 of 1947.

⁴ U.S.A. 1833; France 1844; Portugal and Italy 1879; Belgium and Germany 1885; Austria 1887; Russia 1896.

Under this Decree the High Court was to have full criminal and civil jurisdiction over all British subjects and protected persons and all subjects of those friendly foreign Powers whose consular tribunals were or should in future be closed and over the subjects of all Christian Powers not represented by Consuls. It also acquired jurisdiction over all Zanzibar subjects accused of an offence against subjects of these Powers, and in all civil issues arising between such persons and Zanzibar subjects, whether they were plaintiff or defendant. The Sultan thus retained jurisdiction over all his own subjects and the subjects of non-Christian Powers, except in so far as they were brought within the jurisdiction of the High Court by virtue of the arrangement just mentioned.

At first sight therefore there is a dual system of justice, but a conflict of jurisdiction is avoided by the fact that in practice the British Government Courts and the Sultan's Courts have the same personnel. His Britannic Majesty's Courts as now constituted by various Orders in Council issued under the Foreign Jurisdiction Act are the High Court, the Courts of the two District Commissioners acting as Resident Magistrates with First Class powers, and the Courts of the Assistant District Commissioners exercising Second or Third Class powers. The Mudirial Courts, having been constituted under the British Subordinate Courts Order of 1923, belong to the same series.¹ His Highness the Sultan's Courts, which have been constituted by parallel Decrees, have precisely the same form and personnel. To them must be added the Kadhis Courts which deal with issues involving Mahommadan law and custom.²

¹ See Proclamation of 1947 in Government Gazette, 4th October, 1947.

² For a fuller statement on the subject of jurisdiction see *The Dual Jurisdiction in Zanzibar*, J. H. Vaughan, 1935.

SECTION III

THE LOCAL GOVERNMENT INSTITUTIONS

THE URBAN INSTITUTIONS

INSTITUTIONS of local government which serve urban centres must be differentiated from those designed to meet the needs of rural communities. The population of the two Islands classed as urban was returned in the 1948 Census as 52,978 out of the total of 265,872, and only a small proportion of this urban population (7,703) is in Pemba Island. In that Island the small townships are now and will continue to be administered as part of the rural areas. In Zanzibar Island the urban population of 45,275 is centred in Zanzibar Town.

Here a Town Board was set up in 1934, which was replaced by two Councils (The Stone Town and Ngambo Town Councils) in 1944.¹ The former, which deals with the portion of Zanzibar Town in which the European and Indian business centres are situated, has the Senior Commissioner as Chairman, two ex-officio Government members and thirteen nominated members representing the European, Arab and Indian communities. The Ngambo Council, dealing with the area which has a majority of Africans, has the District Commissioner as Chairman, four ex-officio Government members, and twelve nominated unofficial members, of whom nine are nominated on recommendations made by an Advisory Committee in each of the three wards. The European Municipal Officer is Secretary of both Councils.

The functions of these Councils have hitherto been mainly advisory to Government, for the greater part of the public services are provided by the Government Departments. Claims have been put forward—particularly by the mainly Asiatic Stone Town Council—for the grant of full Municipal status, based on election instead of nomination. This would, however, seem to involve the increase of local taxation in order to make the Council more self-sufficient in the matter of finance, since nearly half of the township services are maintained by revenue accruing from sources outside the town. It would also raise a difficult problem in communal representation, since the Indians would appear to out-number the Arabs resident in the Stone Town area. It is moreover doubtful if this body would be adequate to deal with the important project of town planning which forms part of the Protectorate's development programme for the coming decade.²

INSTITUTIONS IN THE RURAL AREAS

As regards the rural areas, it has not, as already shown, been found feasible to introduce any system of local government based on traditional institutions such as exist on the mainland. But consideration has of recent years been

¹ Decrees 24 of 1933 and 6 of 1944.

² See Zanzibar 1946, H.M. Stationery Office, page 9. Since the text was written the two Councils have been amalgamated—see Chapter XI of this survey.

given to schemes for establishing Local Councils in these areas. The Decree 14 of 1947, which has already been referred to as defining the powers of Mudirs and Shehas, makes special provision for the creation of Mudirial and Local Councils. In both cases nominations to these Councils are to be made, for the present at all events, by the Senior Commissioner, but the Local Council is to include "any tribal Elders who may have natural authority according to established custom." The Mudirial Council is to be advisory only. The Local Councils, however, are to make bye-laws on a variety of matters of local interest and to have the power of raising revenue to form a Local Fund, subject to the approval of the Sultan in Executive Council.

The scheme is not yet in full operation. The intention seems to have been to constitute Local Councils in areas where the population is sufficiently homogeneous to provide members by some process of popular selection and Mudirial Councils in areas where the population is of so mixed a character as to make this impossible. But some consideration has since been given to an alternative scheme under which the Local Councils would send representatives to a Mudirial Council which would also contain nominated members representing the areas of mixed population. The Mudirial Council would in turn send members to form a Divisional Council.

Meanwhile there are two Local Councils in Pemba with members elected by different Shehias in the Council's area, and one Council—the Chwaka Area Local Council—in Zanzibar Island, which has grown out of a village Health Board initiated by some of its more progressive citizens eight years ago, to take the place of the traditional body of village Elders which had long since ceased to administer the village affairs. As Local Councils, all these bodies are still in an initial stage of working, and at the moment the whole scheme must be considered as in the stage of experiment. The conditions for their development seem to be most favourable in Pemba, where the African population is more homogeneous than in Zanzibar, and where a more co-operative spirit seems to exist.

The chief problem for the Administration does not lie so much in the form to be taken by these Councils as in the means of financing them. There is at present no direct tax in the Protectorate, and it is said that any proposal to levy a rural rate would be very unpopular. Nevertheless experience has shown elsewhere (as for instance in the Northern Territories of the Gold Coast) that even those who have consistently opposed a Hut or Poll Tax in the past have been ready to impose a local tax on themselves, when it has been made clear to them that the Government will take no part of the proceeds, leaving them to be expended entirely by local authorities for local purposes.

SECTION IV

THE LAND SYSTEM

RIGHTS IN PRIVATELY OWNED ESTATES

THERE are aspects of the system of landholding which affect in a separate manner the interests of the three main communities in the Protectorate. As already shown, Arabs had during the last 150 years become possessed of large estates (shambas), partly by grants from the Sultans, partly by right of occupation or by purchase.¹ A large number of smaller plantations were also held by local Africans (in Pemba, mainly of cloves, and in Zanzibar predominantly of coconuts), and a few by Swahilis. Though the rights in these areas have not been defined in law, they amount to freehold, in the sense that there is a common practice of sale, mortgage and lease, fully recognized by the legal tribunals of the Islands.² Documents relating to transactions of this kind are compulsorily registrable,³ but as there has been no cadastral survey there are no means of determining the exact areas thus held, and it is usual for deeds to refer to the estates in terms of clove or coconut trees rather than of acreage.

A considerable number of the estates have passed into the hands of Indians, and this process acquired political importance when transfers were increased as a result of the depression in world prices in 1928 and the following years. Many Arab owners had become deeply indebted and some had lost their ownership, while the position of the African owners was little better. In 1934 a temporary expedient was found in a Decree which declared a moratorium on existing debts and forbade the alienation of Arab or African lands to persons not of Arab or African race save under specific conditions.

In 1935 a further Decree gave powers to the Government to purchase the interests of mortgagees and other creditors on lands owned by Arabs and Africans, and finally in 1939 a Decree was enacted to control the alienation of all agricultural lands owned by Arabs and Africans and to prohibit the attachment of such lands or their produce for debt.⁴ These enactments gave to an Alienation Board appointed by the British Resident the power to control alienation by Arabs or Africans and to regulate the terms of mortgages or leases contracted by them. An appeal lay from the Board to the British Resident, and his decision was to be final.

This legislation evoked much criticism, particularly from the Indian community, and though it would be out of place here to discuss its merits, it may be noted that subsequent events seem to show that the assumptions on which it was based overstated both the amount of agricultural indebtedness and the extent of alienation to Indians. The Agricultural Indebtedness Commission of 1940 showed that the total debt secured on land was only £213,000. The Government has advanced money for the settlement of outstanding debts, taking a mortgage lien on the estates concerned and collecting reasonable instalments in repayment. A sum of £163,970 was thus advanced and by June 1947 a sum of £89,780 had been refunded, leaving a sum of

¹ See page 3.

² See C. K. Meek, *Land Law and Custom in the Colonies*, 1945, page 72.

³ Registration of Documents Decree of 1919 and Transfer of Property Decree of 1921.

⁴ The Alienation of Land Decree, 1934; the Land Protection (Debts Settlement) Decree, 1938; the Land Alienation Decree, 1939.

£97,900 (including interest) to be recovered. The number of owners affected is 904, but of these no less than 540 owe a sum amounting in all only to £8,300.

There remains in the hands of the Commissioner for Debts a hard core of indebted estates, for which dispossession appears to be the only solution, but as the law stands no one can be dispossessed without the sanction of the Sultan in Executive Council, and difficulties may arise here from the fact that many of the owners of these estates are Arabs. Though, however, the problem is less than was at one time thought, the legislation remains as a continuing source of resentment to Indians, rather perhaps on the point of principle than because they have an active interest in acquiring and managing estates.

As has been shown, documents relating to the transfer of rights in estates have to be registered, but there is no system of record of titles, and it was felt at one time that the establishment of a Register of Titles was essential, if only because doubt regarding the validity of titles had been a factor in the excessive rates charged for loans on the security of land. A Bill was introduced in 1937 for the Settlement and Registration of Rights to land, but it has not yet become law, as it has been held that the expense of survey and determination of rights would not be justified. It is now said that there is in fact little risk in accepting titles as shown by the registration of documents.

RIGHTS IN OTHER LANDS

The position in regard to rights in other lands is somewhat more complicated. The Public Land Decree of 1921, Cap. 106 of the Revised Laws, 1934, declared that Public Land was vested in the Sultan "in right and virtue of his Sultanate," and defined Public Land as including all waste and unoccupied land and all lands occupied by natives in accordance with local or tribal custom. No person other than a native could occupy such land without a permit from a District Commissioner; the British Resident could, on behalf of the Sultan, take possession of or sell or grant such land; subject to compensation for any native use or right of occupation; and no document purporting to transfer, charge, or dispose of such land could be registered unless countersigned by a District Commissioner.

In point of law therefore the position of native holders of land in Zanzibar is to this extent analogous to that of natives in Tanganyika,¹ but, as in that case, the law fails to make clear what is the character of the rights enjoyed by native occupiers of land vis-a-vis either the State or the other members of the community. This last point is one which in Tanganyika is left primarily to the decisions of the Native Courts, but in the Zanzibar Protectorate the customary law has to be interpreted by Courts presided over by British officials or by Arabs, and the latter at all events must be influenced by the fact that Muslim law is the fundamental law of the country.

There appears to be a somewhat different system of rights in the lands attached to the house sites (*viambo*, plural of *kiambo*), and in the surrounding bush land. A *kiambo* is regarded as the heritable property of the family, and a wide system of relationships seems to secure that this right does not die out. It is not, however, considered to be alienable. The bush land is controlled by village Elders, and its use is subject to the payment of certain ritual dues to a dignitary who amongst the *Wahadimu* is called the *mvyale*. The bush land is common to all members of the local community, but the man who first clears an area has a prior right to it, and that right is transmitted to his descendants.²

¹ See Chapter III, page 355.

² For further details see *Review of Systems of Land Tenure in Zanzibar*, McGeach and Addis, 1945; *Land Tenure among the Wadimu at Chwaka*, R. H. W. Pakenham, 1947.

SECTION V

CONCLUSION

IF Zanzibar is in form an Arab State under an Arab sovereign, it is nevertheless clear that the real substance of rule rests with the British Government. It is open to debate whether, when the Protectorate was created, it would not have been possible to explore the possibility of developing a suitable form of rule without the importation of so large a number of European officials and the exercise of so close a form of control. Whatever the general benefits achieved, the system actually adopted had the result of creating in the Protectorate an official establishment which, judged by the standard of comparable areas on the mainland, is out of proportion to its size and population. This is perhaps best illustrated by the fact that in the Zanzibar estimates of 1946 the expenditure on Pensions amounted to no less than £76,827.

Of late years a reduction has been made in the number of European officials, at all events in the Administrative cadre, and the institution of His Highness's Zanzibar Service and the development of the status of the Mudirs may render it feasible to place more authority in the hands of locally recruited officers. It was only to be expected that this process should so far have meant the recruitment or promotion of a predominantly Arab personnel. But this, like any other development emphasizing the position claimed by the Arab community, has inevitably had reactions on the domestic policies of the Protectorate. It has strengthened the growth of local Arab consciousness, which has itself been stimulated by events affecting Muslims in the outside world. There are now two bodies—the Arab Association and the Young Arab Union—which exist for the advocacy of local Arab interests. They not only claim that European representation in the Government should be increasingly replaced by that of Arabs, but seek to re-open the question of the interest of the Sultan in the coastal belt of the mainland now administered by the Kenya Government.

On the other hand, the Indian community has seen with concern the growth of Arab consciousness and the claim of Arabs for a greatly increased authority in the government of the country. Indians claim that though the recent land legislation was put forward as a measure for protecting agricultural interests, its real purpose was to prevent Indians from acquiring estates at the expense of Arabs. An Immigration Bill recently introduced is, in their view, designed to restrict the growth of their community and the maintenance of its contacts with trade.

The Indians can point out that they are not recent immigrants, for their settlement in the Protectorate is of old standing. They number nearly 16,000 as against nearly 43,000 Arabs, but there are many persons classed as Arabs who are in fact of mixed Arab and African blood. The Indians, finally, can claim a preponderating share in the commercial development of the country and a higher general standard of education. The Indian National Association is well organized, and in 1946 presented to the Secretary of State a Memorandum emphasizing the claim of the resident Indian population to a larger share in the political institutions of the country and to a guarantee that they will not be excluded from administrative and technical appointments.

The African population is less well organized, and as a whole it seems at the moment more contented to accept the tradition of Arab rule. There are, however, signs of an awakening of African consciousness. There is an African Association which though at present small in numbers gives signs of growing activity. It consists mainly of Africans of recent mainland origin and is affiliated to similar bodies in Tanganyika. It is significant that it claims that the Washirazi (the name which, as was already shown, has been adopted by the Wapemba, Watumbatu and Wahadimu),¹ are "Asiatic interlopers," and are incapable of representing true African interests. That is of course an intentional misreading of the connotation of the term *Wa-shirazi*, for this class not only constitutes the great majority of Africans, but contains the largest indigenous African element. This section of the African population also has its own body, the Shirazi Association, and it seems true to say that of recent years this class of Africans is as closely concerned with questions of political advancement, as in the means of improving their material and social conditions.

These tendencies have been stated here not because there can be any desire to check the growth of the Arab share in the government of the country, but because it is clearly desirable to avoid as far as possible anything which may cause a breach in the communal harmony which had for many years characterized Zanzibar. The remedy for the competing claims of Arabs and Indians must be sought in suitable political adjustments. As regards the Africans, the contemplated development of Local Government institutions should provide a useful beginning in the process of securing for them a better position in the general setting of the Protectorate, but it is a process which in justice to Africans must in time be extended also to both the political and administrative fields of government.

The logical development of Zanzibar must be that of a protected Arab State in which the element of protection will progressively take the form of guidance and advice rather than that of control or administrative intervention. But this development must be effected without prejudice to the claims of the Indian and African communities, whose contribution to the economy of Zanzibar is far greater than that of the Arabs.

¹ See page 3.

CHAPTER V

Nyasaland Protectorate

SECTION I

GENERAL

THE INFLUENCE OF EUROPEAN SETTLEMENT ON NATIVE POLICY

IN A STUDY of the systems of native administration followed in the territories of East and Central Africa there is one feature of general though varying interest—namely the influence which European settlement or the alienation of native lands has had in determining the outlook of local policy on native affairs. That has, for instance, been a factor of special importance in Kenya, but of relatively minor concern in Uganda. It was, as will be seen, at one time a factor of considerable importance in Nyasaland, though more recently the considerations of major importance have been those which concern the economic life of the population of the Protectorate as a whole.

Even before the declaration of the Protectorate in 1891,¹ Nyasaland had appeared to be indicated as a suitable area for European colonization, and about the year 1884 various companies and individuals had begun to acquire land by purchase from native Chiefs. It was decided in 1891 to take steps to regularize these transactions, and "Certificates of Claim" were issued to those who could give evidence of long occupation or authentic purchase from recognized Chiefs on reasonable terms.² It will be necessary to notice subsequently some of the problems arising from these transactions, but it may be said here that in 1892 the area of the concessions so recognized covered 15 per cent. of the total land area of the Protectorate. The concession areas were, however, for the most part held in large estates, no less than 72 per cent. being in the hands of eleven companies or large estate-holders. A considerable proportion of these areas—as for instance the British South Africa Company's freehold of over 3½ million acres in the former North Nyasa District—was not brought under active occupation by the holders, and the number of European settlers was therefore small. Such as they were, they were for the most part concentrated in the Southern Province, where the conditions seemed most favourable to the production of coffee, cotton and tobacco, the crops which at the time seemed to offer the best prospects for development by Europeans.³

The validity of the transactions by which these lands had been acquired was stoutly contested by the successors of the Chiefs concerned, and the feelings

¹ The Protectorate was designated as the British Central African Protectorate by the Order in Council of 1893 and as the Nyasaland Protectorate by the Nyasaland Order in Council of 1907.

² For the procedure for the examination of claims, see Sir H. H. Johnston, *British Central Africa*, 1898, page 112.

³ Coffee was introduced as early as 1878, tobacco in 1893 and cotton in 1900.

of Africans on the subject undoubtedly increased the initial difficulty encountered in the introduction of the system of local rule in 1912.¹ Native feelings on this subject were to some extent mitigated when the Protectorate Government made it clear that it did not contemplate a policy which might involve any large scale appropriation of land for European settlement, an attitude which found its final expression in the Nyasaland Native Land Trust Order in Council of 1936. The significance of this measure lay in its definite rejection of proposals for the creation of Native Reserves, a policy which had been favoured at an earlier stage in the history of the Protectorate.

By virtue of the Order of 1936 all lands, other than those already alienated or held as forest reserves or town areas, and the small areas occupied by the Crown for public purposes, were vested in the Secretary of State as Native Trust Lands. Various circumstances, and in particular the withdrawal of the British South Africa Company from its surface rights in North Nyasa District, while retaining its mineral rights, have reduced the alienated lands to a proportion of 5.1 per cent. of the total land area, and the Native Trust Lands are now 87.25 per cent. of the total area.²

At the same time, conditions in Nyasaland have not proved to be such as to encourage any large expansion in the number of European settlers. Cotton and coffee have proved to be unremunerative as European enterprises, and though the production of tobacco has greatly increased both on European estates and Native Trust Lands, the production of tobacco by European enterprise involves problems of estate management rather than the extension of farming by individual settlers. Tea has of late years also proved remunerative, and is entirely in European hands, but the present tendency is for production to pass from the hands of individuals into those of companies, and this will no doubt be true also of the expanding tung industry.³

The census of 1945 gave the European population as only 1,948, practically the same as in 1931, but of those only 171 were classed as Planters and Agriculturalists as against 290 in 1931. Everything therefore has gone to confirm the conclusion drawn by Sir Charles Bowring in 1924 that Nyasaland was not suitable for European colonization in the true sense of the word, and that its prosperity would depend on the development of its resources partly by a limited number of European planters but principally by the natives themselves with European instruction. It remains, of course, true that, as the Post War Development Committee of 1945 has observed, "the past history of the country shows that the European planter has initiated and developed the country's agricultural industries and not only those in which the European is the principal but also those which are joint enterprises as well as those which are purely African in character." This is perhaps best illustrated by the production of cotton and tobacco. Both owe their introduction to European enterprise. Cotton is now almost entirely a native production. The returns for 1945 showed that of the tobacco crop of that year 18,352,851 lbs. were of native production, mainly on the Native Trust Lands, as compared with 2,229,928 lbs. classed as European production, while in 1946 the figures were 13,064,000 and 2,967,809 lbs. respectively.

¹ See page 25. On the general question, see Report of East Africa Commission (Cmd. 2387 (1925), page 111), and also paragraphs 20 and 21 of the Land Commission Report, 1946.

² Land Commission Report, 1946, page 5.

³ Of the exports in 1946, valued at £2,364,970, tobacco was valued at £2,058,572 and tea at £749,624. Cotton was only £126,252 in value and coffee had ceased to be exported.

Turning, however, to the influence exercised by European settlement on the system of native administration, this has been manifested in two ways. In the first place Europeans, though far from showing a lack of sympathy with native progress, remain as a whole critical of the work of the Native Authorities as agencies of local rule, and frequently express an unfavourable opinion of the manner in which some of the Chiefs discharge their responsibilities. In the second place, the existence of the large body of resident labour on the private estates has created political and economic problems which have not only proved embarrassing in a general sense, but have caused special difficulties in the application of the current system of native administration in the Districts of the Shire Highlands.

The Census of 1945 showed some 211,394 natives as resident on private estates, of whom 173,000 were in the Shire Highland Districts. The general factors of this problem have been so fully dealt with in the Land Commission Report of 1946 that it is unnecessary to enlarge on them here. If the proposals of the Commission are accepted, they may remove some of the difficulties arising from the disabilities to which the resident labourers have been subject, as for instance the obligation to pay rent in cash or kind, an obligation not shared by their neighbours on Native Trust Lands. But they seem likely to leave unsolved the problems in native administration created by the labour resident on private estates and by the large agglomeration of natives of different tribes, together with immigrants from Portuguese East Africa, in the congested Districts of the Shire Highlands. This matter will be more fully discussed in the Section dealing with conditions in the Southern Province.¹

THE EFFECT OF EMIGRATION

There is a second factor in the economic life of Nyasaland which also has a bearing on the operation of the current system of local administration. Since the Nyasaland Committee on Emigrant Labour reported in 1935, the Protectorate has held a conspicuous place in the growing volume of literature dealing with the social effects of labour migration in Africa, and the more so, because in this case emigration has involved a longer period of absenteeism than that resulting in most other territories from which emigrant labour has been drawn. The matter has formed the subject of much subsequent consideration, notably in connection with the negotiations of 1942 for the revision of the Provisional Agreement on Migrant Labour concluded by Nyasaland with Northern and Southern Rhodesia in 1936, and with those leading to the further Agreement of 1947, concluded as the result of the Report of the Special Committee of the Central African Council in 1946.²

The Census of 1945 gives the total of absentees in that year as 133,306 (including 9,446 females) of whom 32,144 are recorded as having left before September, 1939. The Special Committee of the Central African Council estimated that the able bodied males in Nyasaland fit for employment numbered 320,000, of whom 63,000 were employed as wage earners in the home territory, 78,000 in Southern Rhodesia, 33,400 in the Union of South Africa and 8,600 elsewhere.³ The figures given for the Union are admittedly open to some doubt, since any Nyasaland labour entering the Union, with the

¹ See page 68.

² Southern Rhodesia, C.S.R. 42—1947.

³ The corresponding figures in the Nyasaland Labour Department Report for 1946 are 81,000; 30,060; and 5,700.

exception of 12,750 men whom the Witwatersrand Native Labour Association is now permitted to recruit for the Union gold mines,¹ is classed as "prohibited immigration," and its entry into the Union is therefore clandestine.

It would however seem that, as observed in the Report of the Census of 1945, some of the previous estimates of the extent of adult male population permanently lost to Nyasaland by emigration have been unduly exaggerated. The census did not reveal a disproportionate excess of females to males, for there is nothing abnormal about a ratio of 49.2 males to 50.8 females. It is difficult to distinguish the trend of natural increase or decrease of population from that due to migration,² but the increase of 26 per cent. in the total population during the decennial period ending 1945 does not indicate that there has been any check which can be attributed to emigration.

It may be added that the present policy of the Administration does not contemplate any restriction on emigration, and is directed mainly to securing conditions of recruitment which will, first, guarantee the return of emigrant labour within a two-year period, and, second, introduce everywhere a system of compulsory deferred pay and family remittances. It is, however, the Government's policy to make conditions of labour within the Protectorate more attractive and thus to reduce the economic incentive to emigration. The remittances of emigrant labour are an important element in the economy of Nyasaland, for even under the present system of voluntary remittances the receipts in 1945 were over £268,000.³

It is less easy to assess the social effect of emigration or the extent to which it has affected the working of the system of Native Administration. The chief volume of emigration comes from the areas which have a subsistence economy and do not produce either tobacco or cotton. Thus it was stated in 1947 (though this is admittedly only a very rough estimate) that half the adult male population of Chinteche District in the Northern Province was absent from it, and in Mzimba District nearly 40 per cent. were said to be absent. Another estimate, however, has given the emigration from Chinteche District as 19 per cent. of the total population, that from the Mzimba District being 9 and from the Karonga District 6 per cent.⁴ During the years 1942 to 1947 the average number of Identification Certificates issued to prospective emigrants from the various Provinces were as follows; in the Northern Province, 6,912 or 2.4 per cent. of the total population in 1945; in the Central Province, 14,267 or 1.9 per cent. of the 1945 population; in the Southern Province 13,147, or 1.3 per cent. of the population in the same year. It is only in the Districts from which emigration has been a prominent feature over a course of years that its social effects are readily observable.

As regards the effect of emigration on the working of the system of native administration, it is of course the fact that in Nyasaland the Native Authorities are constantly under the criticism of Africans who have had experience of the outside world, and this must have its result in adding to the loosening of tribal

¹ Recruitment is limited to 5,000 in any one year, with a total of 12,750 in employment. The total period of absence of these labourers from Nyasaland amounts on an average to 20 months.

² Migration to Nyasaland from Portuguese East Africa also comes into the account, see page 24.

³ Only the remittances of the Witwatersrand Native Labour Association recruits to the Union have been compulsory; they amounted in 1945 to £16,476, including a certain number of voluntary remittances. Other Nyasaland labour in the Union sent £216,795 voluntarily; the far more numerous body in Southern Rhodesia sent only £34,000.

⁴ Provincial Commissioners Reports, 1947, page 35.

tics which has resulted from economic and educational developments. It is, however, only in a few cases that Chiefs complain that returned emigrants show themselves impatient of the constituted Native Authorities, and it would appear that the element most critical of them is not the returned emigrants, but the Africans who have been employed in Government service.

THE RESOURCES OF THE AFRICAN POPULATION

It is pertinent to enquire here how far emigration reflects an inferiority of African resources in Nyasaland, since their extent is always an important factor in the development of the services which Local Government institutions can render to the community. Emigration is primarily a proof of the low scale of pay available to the wage-earning section of the people, and this is inferior to that prevailing in Southern Rhodesia and very far inferior to that in the Union of South Africa.¹ As shown above, only 63,000 of the available Nyasaland labour is estimated to be employed locally as wage earners, and there are standing complaints of the inadequate supply of labour in local enterprises and consequent loss of production.² It is the cream of the African population which goes abroad in expectation of a scale of wages with which no form of local agriculture seems normally able to compete. On the other hand, the resources available to the large section of the population which cultivates tobacco and to a lesser extent cotton on the Native Trust Lands have greatly expanded in recent years.³ The average return to tobacco growers on these lands was said to be £10 8s. 4d. in 1945-46 as against an average of £3 os. 10d. in the three previous years.⁴ An analysis made of the total national income of Nyasaland for the year 1945 gave it as £8,940,000, of which £6,874,000 was in respect of Africans, the average income per African family being estimated at £12 2s. and this must have been substantially increased by the recent rise in the price of tobacco and cotton.⁵

It has been usual in the past to refer to the relatively low rate of the Native Tax imposed under the Tax Ordinance of 1939 as evidence of the poverty of native resources in Nyasaland. In 1940 the tax was fixed at 8s. per poll, with reductions down to 6s. in certain prescribed Districts, but as will be shown subsequently, the tax was in 1948 increased everywhere to 10s., except in Likoma and Chizumulu Islands. There is at the same time a high ratio of exemptions, amounting in all to 76,121. Up to 1948 the incidence was estimated to work out in practice at from 4½s. to 5½s. for individuals and 10½s. for families.⁶ In all the circumstances it is open to doubt whether the native tax now reflects accurately—at all events in the tobacco growing areas—the taxable capacity of the African. The point becomes of importance in view of the range of the finances of the Native Authorities. The total estimated

¹ For detailed figures see page 17 of Fiscal Survey, 1947 and page 5 of Labour Department Report, 1946.

² Fiscal Survey, page 6.

³ The Tobacco Board statistics for 1947 show that the average realized price of "fire cured" tobacco, mainly a native product, which was 9.10 pence a pound in 1943, was 22.8d. a pound in 1947.

⁴ Page 9 Labour Department Report, 1946.

⁵ Other items of the national income were £530,000 in respect of Companies, £794,000 in respect of Europeans, £556,000 in respect of Asians, and £180,000 in respect of Government. See P. Deane, *The Measurement of Colonial Incomes*, 1948.

⁶ Fiscal Survey, 1947, pages 8, 10, 31; it should be noted however, that some of the conclusions of this Survey have not been accepted by the Government.

revenue of all Native Authorities in the Protectorate amounted in 1949 to £97,289, plus an opening balance of £60,267, which though a substantial advance on the figures for 1947 (£60,448 and £44,261) is still insufficient for the adequate provision of local services. Their income is derived largely from the rebate on the Native Tax given to Native Treasuries by the Protectorate Government, as the Native Authorities had not until 1949 levied a local rate. The rate then fixed was only 1s. per taxpayer.

THE DEVELOPMENT OF EDUCATION

One further factor remains to be noticed. In view of the attitude taken by many educated Africans in other territories, and notably in West Africa, towards the prevailing system of native administration, it is relevant to ask whether the advance made in education has had similar consequences in Nyasaland. It has been usual to describe the Protectorate as having achieved an outstanding progress in education. Sir R. Bell's Report of 1938, for instance, estimated that there were 50-60 per cent. of the inhabitants literate in the vernacular and 6 per cent. learning English,¹ but these statements have since come under criticism as the result of the Census investigations made in 1945. The Census Report estimates .96 of the total de facto population (that is, excluding absentees) as literate in English, and 6.55 per cent. as literate in the vernacular, using this term to denote "those who can read and write a letter, as opposed to those who can make a few undecipherable hieroglyphics on a piece of paper."

The Nyasaland Department of Education accepts this estimate, and finds the explanation in the very short period of school life now spent in the primary schools, and in the lack of institutions for post-primary education. It has stated in one of its Reports, that "less than one-fifth of the pupils remain long enough to acquire full literacy even in the vernacular, and some of these lapse after leaving school."² It has, again, characterized the primary school teachers as inferior to those in any British Colony. There are two Junior Secondary schools, but these had in 1947 an enrolment of only 103. Nyasaland emigrants enjoy a considerable reputation in other African territories, but there have clearly been some misunderstandings in the past regarding the general level of education attained in Nyasaland itself.

The obstacle to the improvement in this direction seems to lie partly in the apathy of the parents, and partly in the lack of finance available for improving the school system. From the outset schools have been entirely in the hands of the Missions, and from 1908 to 1918 the Government made only a small annual grant of £1,000, which was doubled from 1918 to 1926. Government expenditure then increased gradually up to £25,000 in 1940, and the estimates for 1947 provided for a sum of £114,267, about half of which was to be provided from the Colonial Development and Welfare Fund. It is relevant to note here that the Nyasaland Post War Development Committee considered that the extension of school facilities must depend largely on the capacity of the Native Authorities to raise funds, by a local rate or otherwise, for improving the existing schools or substituting a system of Native Authority schools. This matter also will receive further notice in the subsequent Sections dealing with the working of the system of native administration.

¹ Col. No. 152.

² In 1946 there was an enrolment of 128,375 boys and 84,883 girls, but of these 197,662 were in the sub-standards, 14,152 in standards I—III, and only 1,272 in standards IV—VI.

THE AFRICAN SOCIAL STRUCTURE

When Great Britain declared its Protectorate over the "Nyasaland Districts" in 1891 the territory was still in a condition of unrest and indeed of actual conflict. The British had since 1884 been engaged in operations for the suppression of the slave trade, in which not only the coastal Arabs, but many also of the local tribes, and most notably a section of Yaos, were actively involved. But the slave trade itself was only one of the factors which had caused a general unsettlement in the conditions of the territory. At some earlier date, of which no definite record exists, the Bantu tribes known under the general name of the Anyanja had moved up into Nyasaland from their traditional home of Amarawiland in the neighbourhood of the Zambezi, and when Central Africa first became known to Europeans, the greater part of the territory was occupied by various branches of this main stock.

There were Mang'anja on the lower Shire; Ambo, Antumba, Ampotola and Amarawi round the south end of Lake Nyasa; Anyanja proper on the Lake Shore as well as in the Shire Highlands; Achewa and Achipeta in which is now known as Central Angoniland. There were at the same time certain other Bantu tribes, smaller in numbers and probably of different stock, such as the Atumbuka, Atonga and Ankonde, settled to the north and west of Lake Nyasa. Little is known of the relations between the different divisions of the Anyanja people, though there is a tradition that the whole of the Anyanja proper were once united under one paramount Chief living in what is now Portuguese East Africa. But whatever the conditions in which these tribes originally lived, they were radically disturbed in the first and second quarters of the last century by two developments, each of which left a permanent mark on the social structure of the territory.

THE INCURSION OF THE ANGONI

About 1825 the Angoni,¹ a tribe of the Zulus, which had broken away from Chaka's authority, moved northward, and in the course of a migration which justly ranks as one of the romances of Central African history, reached a point near the south end of Lake Tanganyika. After the death of their leader, the tribe broke into a number of sections, some of which are now to be found on the east of Lake Nyasa in Tanganyika, others on the south of the Lake and in the Highlands overlooking the Lake from the west, others again in the Fort Jameson District of Northern Rhodesia and on the northern plateau to the west of the Lake. There they occupy the area once known as Mombera's, from the name of the chief who led the section in question.

THE INCURSION OF THE YAO

But perhaps an even greater upheaval was caused towards the middle of the last century by the incursions of the Yao. The incursions of the Angoni had been wars of conquest, and they rapidly became incorporated with the indigenous Anyanja inhabitants or with the Atumbuka and other tribes living in the areas now included in the Northern Province. Their language became lost in that of the peoples whom they had invaded, and it is for instance difficult to know how much Angoni blood remains in Central Angoniland, though it is possibly very little. But the incursions of the Yao were more of the nature of a mass tribal movement.

¹ For the Angoni see Chapter I of *The Native Tribes of the Eastern Province of Northern Rhodesia*, E. H. Lane Poole, 1938.

The homeland of the Yao, who like the Anyanja and Angoni were of Bantu stock, was in the areas watered by the Upper Lujenda and the Upper Rovuma. The tribe had several divisions, but the groups which were mainly concerned in the incursions into Nyasaland were the Machinga and Mangoche, who were driven from their homes in Portuguese East Africa by pressure from their neighbours further to the east. More vigorous than the relatively peaceful Anyanja people, they rapidly established themselves in the Shire Highlands and in particular in the Fort Johnston and Liwonde areas, which are now predominantly Yao Districts. Owing to their contacts with coastal Arabs, the Yaos had largely adopted the Islamic religion, though they are lax in performance of its observances. Of late years some sections—particularly the Amangoche—have intermarried with the local Anyanja and to a lesser degree with Angoni, but in spite of intermarriage they have for the most part retained their own language and their tribal constitution under their own Chiefs.

IMMIGRATION FROM PORTUGUESE EAST AFRICA

There is one other factor which has affected the original tribal structure of the territory, though it has been far less disturbing in its effects. From an early date in the history of Nyasaland there has been a steady movement of immigrants from Portuguese East Africa into the southern areas. They are described under the general name of Anguru or Alomwe (though they themselves dislike the former name) and belong largely to the Alomwe and Amihawani tribes of Portuguese East Africa. It may be noted here that the movement into Nyasaland was accelerated during the first world war, largely, it is said, owing to the desire to escape conscription as carriers. The influx continued till the early 'thirties, the reason popularly assigned in this case being the relatively high rate of taxation in Portuguese territory and the methods adopted for its collection. Since then the movement has been greatly slowed down, partly as the result of measures taken by different Native Authorities to control it. Between 1921 and 1931 there was an increase of 95 per cent. in the numbers classified for Census purposes as Anguru and Alomwe, but the increase in the period 1931 to 1945 was only 61 per cent. It is noteworthy, moreover, that those immigrants, when once established in the Nyasaland Districts, are rapidly assimilated and accept the social order of the people among whom they have settled.

THE PRESENT TRIBAL DISTRIBUTION

The movements of population and the changes due to the tribal incursions described above have given Nyasaland a somewhat unusual tribal structure. As classified for Census purposes the tribal distribution of the African population (2,044,707) in 1945 was as follows:—

Tribe	Population	Percentage of total population
Achewa (Achipeta)	576,143	28·18
Angoni.. .. .	193,482	9·46
Yao	281,177	13·74
Anyanja, Mang'anja, Amaravi etc... .. .	312,482	15·28
Alomwe, Anguru, Ankhokola, Ampotola, etc.	379,638	18·56
Atumbuka, Ahenga, Anyika, etc.	114,542	5·62
Atonga, Asisya, etc.	50,359	2·46
Achikunda, Asena, etc.	71,866	3·56
Ankonde	62,136	3·04
Others.. .. .	1,882	0·1

These figures would however seem to indicate a tribal structure more clearly stratified than that which actually exists to-day. Some tribes, such as the Atonga, appear to have maintained their individuality, but in other cases tribal distinctions have become increasingly blurred. This process has perhaps been aided by the fact that all the existing tribes belong to the Bantu stock and do not, as do some of the tribes in Uganda or Kenya, reflect differences due to a Hamite or Nilotic origin. Some mention has already been made of the extent to which the Angoni have been merged with the people among which they have settled, and of the assimilation of the Anguru (Alomwe) immigrants with older residents of the Shire Highlands. The Census Report of 1945 has had a useful passage on the developments observed in some other cases:—

“ Any study of the tribal distribution in Nyasaland is confused by the tendency to intermarriage. This is especially true in the Shire Highlands, where the Anyanja, Yao, Angoni, Alomwe and Achikunda live side by side in the same villages. Patriarchal and matriarchal tribes in this area mix and intermarry in a way that is probably unique in East Central Africa . . . On more than one occasion parents who claimed to belong to different tribes, the one patriarchal and the other matriarchal, were unable to agree as to which tribe their children should belong. The sociological structure of the Protectorate is going through a most interesting period of adjustment to new conditions.”

THE ESTABLISHMENT OF THE SYSTEM OF NATIVE ADMINISTRATION

THE INITIAL STAGE

Though the Protectorate was declared in 1891, the operations connected with the suppression of the slave trade continued till 1897. It was natural therefore that in the earlier stages of our occupation the picture which presented itself should be one of general disintegration and disturbance. The structure of many of the indigenous Anyanja tribes had been broken up by the incursions of the Angoni and the Yao. A number of the Yao and some of the Angoni Chiefs had been associated with the Arab slave traders and were involved in the military and other measures taken for their suppression. When, therefore, the Administration looked for agencies for local rule, it decided, in the terms used in one of its earlier reports, that owing to the break up of tribal communities and other causes there were very few Chiefs who could be of great assistance to it.¹ At a later stage, however, it was recognized that “ some paid native local authorities are required as assistants to District Residents in the maintenance of good order.”² The District Administration (Native) Ordinance of 1912, which gave effect to this decision, was announced as designed “ to supply a salutary measure of discipline and control in order to replace the old system of tribal rule of Chiefs which has fallen into decay.”³

Under this Ordinance, District Residents were to demarcate Administrative Sections (normally seven in each District) which were to be in charge of selected Principal Headmen, and it does not seem to have been intended that these Sections should normally coincide with tribal or similar divisions. The Administrative Sections were to be sub-divided into village areas (groups of

¹ Annual Report for 1903-4.

² Annual Report for 1911-12.

³ Annual Report for 1912-13.

villages), each in charge of a village headman. Principal Headmen were not necessarily to be persons who had hitherto been recognized as Chiefs or headmen, and consideration was to be given to the claims—which might often be superior claims—of other persons of good standing “who have assisted the Resident in native administrative matters in the past.”

It will subsequently be shown that in fact a considerable number of tribal Chiefs were nominated as Principal Headmen, though in some Districts the past record of the Chiefs caused a preference for the appointment of “selected” personnel. There was one noteworthy addition to this system. Each Principal Headman was to have a Sectional Council consisting of himself and two village headmen selected by the Resident. This Council was to meet under the presidency and direction of the Resident, and it was hoped by this means to assist “the gradual formation of a subsidiary local government chosen as far as possible by the natives themselves.”

While therefore this system did not exclude the use of traditional Native Authorities as agencies of local rule, its first intention was to utilize both them and the “selected” Principal Headmen mainly as executive agents of the Administration. No powers were conferred on them to hold tribunals, and the functions prescribed for them were mainly in connection with the maintenance of law and order, the construction of village roads, the reporting of deaths and the like. It is not easy to distinguish the stages which marked the replacement of this system by that now in force as embodied in the Ordinance of 1933, a system which makes the traditional Native Authorities, as such, the agency of rule. It is clear, however, that the views held regarding this development in the system of native administration were for some time influenced by the attitude of the European community, particularly in the Shire Highlands. It expressed itself as doubtful of the possibility of finding men competent to act as Principal Headmen, and held the view that their appointment would interfere with the management of labour on the private estates. It was not in fact till 1930 that the part of the Ordinance which provided for the appointment of Principal Headmen and Section Councils was applied to the majority of the Districts in the Southern Province.

THE MOVEMENT TOWARDS A CHANGE OF SYSTEM

The opposition thus expressed was, however, limited to the application of the Ordinance to the Districts of the Southern Province in which most of the estates were situated. Meanwhile Government policy had been moving in the direction of measures which would, in the terms used by the Governor in 1924, constitute “a more serious attempt to introduce in Nyasaland a system of government of the population through or with the assistance of natives themselves,” though it is interesting to note at the same time that it was officially stated that “the new system is in no way intended to revivify or perpetuate governance by Native Chiefs.” The revised District Administration (Native) Ordinances of 1924, 1926 and 1929 gave some additional powers to Principal Headmen (particularly in regard to calling out labour for communal purposes) and made provision for a series of village, section and District Councils, which were to be advisory to the District Officer. A Native Courts’ Ordinance of 1929 made provision for the establishment of Native Courts, in the form of Section Courts presided over by a Principal Headman.

These measures, however, did not extend to the formal grant of powers to the Principal Headmen to administer their areas by virtue of any traditional

or inherent right. They remained in effect the executive officers of the Administration. But there was a growing body of feeling in favour of a change of principle in this respect, which found expression in a Conference of Administrative Officers held in 1930. It finally took shape in the enactment of the Native Authority and Native Courts Ordinances of 1933,¹ which as already indicated, had for their aim the full utilization of the traditional native organizations for all purposes of local government.

THE RE-ORGANIZATION OF THE NATIVE ADMINISTRATION IN 1933.

THE CHARACTER OF THE CHANGE IN SYSTEM

In local discussions regarding the development of the system of native administration in Nyasaland, it is common to find a contrast drawn between what is described as the earlier period of "direct rule," as embodied in the District Administration (Native) Ordinance of 1912, and the later period of "indirect rule" introduced by the Native Authority and Native Courts Ordinances of 1933. But a contrast drawn in these terms suggests that there has been a change of system more radical than that which actually occurred. The statutory powers of the Administrative Officers do not differ materially from those embodied in the Ordinance of 1912. The earlier system of rule was not "direct" in the sense in which that term could be applied to the method adopted in British India, the most classic example of direct rule, in which the agency of local administration was an indigenous Civil Service, recruited by and drawing its authority entirely from Government, and possessing no authority derived from native custom or traditional status. The agency of local rule employed in Nyasaland under the system introduced in 1912 was in no sense a Civil Service, and the difference between this agency and that employed under the system as developed in 1933 lay rather in the scope of the powers assigned to it, and the purpose to which its employment pointed, than in the character of its personnel. That is not to say that the change was not material, but it was a change in policy and objective, rather than in the personnel employed in practice.

It will be convenient to describe separately the changes made in 1933 in the organization of the system of Native Courts,² and to deal here only with those relating to the system of native administration. The Native Authority Ordinance was modelled on the Native Authority law of Tanganyika enacted in 1926. Its chief object was to substitute the Chief for the Principal Headman as Native Authority. The Native Authority was now defined as any Chief or other native or native council or groups of natives declared to be established as a Native Authority, and a Chief was defined as any native recognized as such by the Governor. The Native Authorities were assigned the same duties as the Principal Headmen for the maintenance of order, and given the same powers of issuing Orders enforceable in the Native Courts. But there were two important additions. They were given power to make Rules, subject to the approval of the Governor, providing for the "peace, good order and welfare" of the natives in their jurisdiction. More important, they were empowered to establish a Native Treasury, and to levy rates, dues or fees for the purpose of providing such services for the community as the Governor might direct.

¹ Native Authority Ordinance No. 13 of 1933, Native Courts Ordinance, No. 14 of 1933.

² See page 28.

THE NATIVE AUTHORITIES

The subsequent Sections of this survey will explain the character of the personnel now utilized in each Province as Native Authorities and the manner in which they operate, both as agents for the maintenance of order and as agencies for local government purposes. There are however certain facts of general application which may conveniently be stated here. The jurisdiction of the Native Authorities as now constituted is not defined in terms of territorial Sections, but in terms of tribal groups, sometimes embracing only a single tribe, but in others covering mixed tribes who either because they have had a common origin, or because of past tradition, have been regarded as accepting the authority of the Native Authority designated to control them. The development of this procedure has inevitably involved a process of adjustment, which is still continuing¹ and it has, in some Districts, necessitated the recognition of a number of Native Authorities in excess of the number of Sections previously established. But the present Native Authorities are, with the exceptions which will be noted in due course, invariably Chiefs.

There is a general understanding that, in African custom, the Chief has councillors on whose advice or support he may be in varying degrees dependent, but the Chief is gazetted here as the sole Native Authority, not as the Chief and Council. The normal procedure is for the Government to issue a Notice (under Section 3 of the Ordinance) which recognizes a stated person as Chief and at the same time declares him to be Native Authority within a prescribed area. In the majority of cases chiefdoms are hereditary, either under the matriarchal or the patriarchal system, and the choice of a successor is made by the methods customary within the community itself. Government retains the right of veto, but that is a right which is hardly ever exercised, and it does not intervene otherwise than to assist in composing differences arising over the choice of a successor.

The Chiefs have no formally constituted Councils, but have Advisers who are in some cases sub-chiefs, in others headmen, and in others persons holding traditional posts in the tribal organization. The Protectorate Administration does not intervene to decide their numbers or their personnel. The institution of the Treasury system has been followed by a movement, initiated by the Administration, to secure the federation of the different Native Authorities in a District, in order to provide for a pooling of their resources and for the issue of uniform rules on matters of common interest to them. This movement, as will subsequently be seen, has met with a varying measure of success in different Districts.

THE ORGANIZATION OF NATIVE JUSTICE

THE ORGANIZATION INTRODUCED IN 1933

As has been shown above, the earlier Ordinances which created the posts of Principal Headmen did not confer on them the right to hold tribunals, but a Native Courts Ordinance of 1929 made provision for the establishment of Native Courts, in the form of Section Courts presided over by a Principal Headman. The reorganization of native administration effected in the Native Authority Ordinance of 1933 was accompanied by the issue of a Native Courts Ordinance, No. 17 of 1933, which forms the basis of the present system for the administration of native justice.

¹ See for example the case of the Atonga Tribal Council, page 34.

The Ordinance empowered the Governor to authorize the Provincial Commissioners to establish Native Courts and to declare by warrant the area in which they should exercise jurisdiction. The Courts were to be constituted in accordance with native law and custom, and were to exercise jurisdiction, both civil and criminal, over natives of the area, to the extent defined in the warrant. There were to be excluded from their jurisdiction all cases which were punishable under any law with death or imprisonment for life, and also matrimonial cases other than those arising from marriages contracted under Muslim law or native law and custom. Subject to this, Native Courts were to administer the native law and custom of their area, the provisions of all Rules or Orders made under the Native Authority Ordinance or of any Ordinance brought within their jurisdiction either by the terms of the Ordinance itself or by special order of the Governor. A report of all cases was to be submitted to the Provincial or District Commissioners, who could either on their own motion or on the application of any person concerned revise the proceedings of the Court and make such order or pass such sentence as the Court itself could have made or passed. The Ordinance finally made provision for the establishment of Native Courts of Appeal and provided that the appeal from such Courts should be to the District Commissioner ; if no such Court had been established, the appeal would lie to him direct. Appeal from the District Commissioner would lie to the Provincial Commissioner, and from him to the Judge of the High Court.

The Courts Ordinance of 1933 has recently been amended by Ordinance 17 of 1947. For the purpose of the present survey the most important article of this amendment is that making provision for the creation of the post of a Native Courts Adviser. He is to have access to the records of all proceedings and may on his own motion or on application being made to him revise, amend or quash any decision or order of either a Native Court of first instance or a Native Appeal Court. The Ordinance also varies the position in regard to appeals. The High Court is no longer indicated as the final Court of Appeal. The Provincial Commissioner's warrant is now to prescribe the Court to which appeals shall lie, and the term Court will include the Native Courts Adviser. Where a case comes before the Native Courts Adviser, either on revision or appeal, and a question of law is involved, he may state a case for the opinion of the High Court. Rules of Court are in the case of the Native Courts to be made by the Governor and not by the High Court.

THE COMPOSITION OF THE NATIVE COURTS

Throughout the Protectorate, the Native Courts are in practice the Courts of the Chief or of the sub-chief, where sub-chiefs are empowered to hold Courts. The Chief or sub-chief normally presides over his Court, but the composition of the Court is determined partly by local custom and partly by the choice of the Chief or sub-chief. The Administration does not here intervene to prescribe the composition of the Courts nor the quorum necessary for valid decision. It is of importance that under the procedure now prevailing, members of the Court benches, when paid, receive a fixed fee from Native Treasury funds and are not remunerated by a share from the Court fees or fines.

The warrants divide the Courts into two classes, A and B. A Courts are empowered to award six months imprisonment or a fine of £5 or corporal punishment with the cane up to 12 strokes ; in the case of B Courts, the period

of imprisonment is limited to three months, and the fine to £3, but the limit for whipping is the same. There are in addition a few C Courts dealing with minor cases, and holding varying powers of which the maximum is imprisonment up to one month and fine up to £1.

In addition to the administration of local native law and custom and of the provisions of the Native Authority Ordinance, the Courts have been empowered to administer the following Ordinances ; Native Labour Ordinance (4 of 1944) ; the Dogs Ordinance (Cap. 69) ; Wild Birds Protection Ordinance (Cap. 72) ; Game Ordinance (Cap. 70) ; Cotton (Uprooting) Rules and Tobacco (Uprooting) Rules 1926 ; Diseases of Animals' Ordinance (Cap. 68), and Native Foodstuffs (Price Control) Order 1946. None of these Ordinances, with the exception of those relating to the uprooting of cotton or tobacco, are of any considerable importance and the cases brought before the Native Courts are few in number.

SECTION II

NORTHERN PROVINCE

GENERAL

In dealing with the three Provinces into which the Protectorate is now divided, there is some advantage in beginning with the Northern Province, since the system of native administration can there be seen in its simplest form. The Province, with an average population density of 27.5 per square mile, has none of the relatively congested areas which are to be found in parts of the other two Provinces.¹ With the exception of the two estates held by the African Lakes Corporation in Chinteché and some estates held by Missions elsewhere there are now practically no lands in European hands; there were indeed in 1945 only 66 Europeans recorded as living in the Province. None of its three Districts is within the area producing tobacco, and with the exception of a marketable production of rice and cotton in the Karonga District and of a small production of marketable rice on the Lake shore of Chinteché, all cultivation is of the subsistence type. It is this which seems to account for the relatively high figure of emigration, particularly from Chinteché and Mzimba, to which reference was made in Section I. The progress of the Province has been retarded by lack of communications and difficulty of transport, the Karonga and Chinteché Districts in particular being isolated and practically inaccessible during the rainy season.

THE KARONGA DISTRICT

The present Karonga District is that formerly known as North Nyasa, in which (as previously mentioned) the British South Africa Company at one time held all the land rights. The two chief tribes are the Ankonde (Ngonde) 60,569 and the Atumbuka, with the allied Ahenga, Apoká and Anyika, numbering 18,576. The Ankonde are a tribe of marked homogeneity which have no close racial or linguistic affinity to other Nyasaland tribes, but are related to the Wanyakyusa of Tukuuyu in Tanganyika. They are considered to be one of the oldest tribes in Nyasaland. The Atumbuka, whose headquarters are in the present Mzimba District, are in Karonga somewhat of a mixed type, having been driven from their home in the south by Angoni and harried by Wemba from the north.² The District has considerable herds of cattle, but both East Coast fever and bovine trypanosomiasis are endemic.

¹ The following figures are from the 1945 Census :—

District	Land Area in Square Miles	Population	Density per Square Mile
Karonga	3,004	82,508	27.46
Chinteché	1,937	52,009	26.85
Mzimba	5,729	156,208	27.26
Total	10,670	290,725	27.25

² For a study of the Atumbuka, see Notes on History of the Tumbuka-Kamanga Peoples, Cullen Young, Religious Tract Society, 1938.

THE CHINTECHE DISTRICT

The Chinteche District, formerly known as West Nyasa, is sparsely occupied, except in the central area of Kabunduli and along the Lake shore. The District includes the small islands of Likome and Chizumulu, the former being closely populated, with a density of over 360 to the square mile. The chief tribe is the Atonga (with allied Asisya) numbering 44,284, but in the centre are a number of Atumbuka and Ahenga (4,350). The Atonga are said to be of the Marawi stock, of an earlier migration than the Achewa; their language is akin to Chi-Tumbuka. Their chief characteristic lies in the fact that they have little tribal cohesion and do not accept any authority higher than that of group or so-called clan leaders. They are individualistic in their conception of land tenure, and their history has been one of strong internal dissensions, though it stands to their credit that they succeeded in maintaining their position against the Angoni.

THE MZIMBA DISTRICT

The Mzimba District is the largest and most populous in the Province. It was formerly called after Mombera, the leader of the Angoni invasion about 1855, the word being another rendering of the name M'mbelwa, which is still borne by the head of the local branch of the Angoni. There are indications that the District was at one time heavily populated, and the consequent loss of soil fertility may be one of the reasons for the heavy emigration to which reference has already been made,¹ but there may be larger scope for home employment if the projected development of the tung industry on the Vipya plateau is successful.² The dominant tribes are the Angoni (44,948) and the Atumbuka, with the allied Ahenga, Akamanga, Ahewe and Apoka (89,135). But there has been much intermarriage, and the lingua franca of the District is Chi-Tumbuka, with Chi-Henga in the north. Save for the Jere, the Angoni ruling family, the Angoni have almost ceased to exist as a separate tribe, though as will be seen subsequently, there is evidence of the survival in this District of a stonger tribal organization than elsewhere in the Province.

THE FORMATION OF THE NATIVE AUTHORITY SYSTEM

The formation of the Native Authorities is shown in the following statement on page 33. The salaries shown are those received in 1947; they were being increased in 1948 in accordance with the measures taken in the Protectorate to improve the financial position of the Native Authorities.

The Ordinance of 1912 had divided the Districts of the Province into territorial Sections, seven in one District, and eight in the two others. Each Section was under a Principal Headman, and a majority of these were Chiefs holding authority in their own tribal areas. At present all the Native Authorities, except those in the Chinteche District, who will be separately mentioned, are tribal Chiefs, though there are some, as in Karonga District, who have authority over mixed tribal groups.

¹ Page 20.

² See Provincial Commissioners Reports 1947, page 34. A project for growing wattle is also under consideration.

District	Native Authorities	sub-Chiefs	Salary of Native Authorities	Salary of sub-Chiefs or Councillors
Karonga ..	1. Chief Kyungu (Ankonde)	7 sub-chiefs	£220	£12 to £26
	2. Chief Mwafulirwa (Ahenga)	1 sub-chief	£36	£12
Chinteche ..	1. Chief Mbwana (Atonga-Atumbuka)	1 sub-Chief gazetted as Subordinate Native Authority	£20	£1 to £3
	2. Chief Kabunduli (ditto)	—	£15	„
	3. Chief Boghoyo (ditto)	—	£5	„
	4. } Two Native Authorities	—	—	—
	5. } replacing the Atonga Tribal Council (see below)	—	—	—
	6. Likoma Island Council with Chizumulu Council subordinate	—	—	—
Mzimba ..	1. Chief M'mbelwa (Angoni)	6 sub-chiefs gazetted as subordinate Native Authorities	£180	£15 to £35
	2. Chief Chikula-maembe (Akamanga-Atumbuka)	5 sub-chiefs gazetted as subordinate Native Authorities	£42	£7 to £10
	3. Chief Katumbi (Ahewe-Atumbuka)	—	£24	—

THE KARONGA NATIVE AUTHORITIES

Of the two Native Authorities in the Karonga District, Chief Kyungu¹ is the more important, having seven sub-chiefs under him, while Mwafulirwa has only one; in neither case are the sub-chiefs gazetted as subordinate Native Authorities. Both the Chiefs and sub-chiefs are hereditary in the patrilineal line, but the sub-chief is recommended to the Chief by the village headmen and is approved by him. Chief Kyungu is a man of personality and traditional prestige, his ancestors having in the past been treated as deities; he and three of his sub-chiefs are literate.

Chief Mwafulirwa has a smaller jurisdiction, and though he has ability and character, his effectiveness is impaired by the existence of conflicts between the Afulirwa and other factions. While there is in neither area a regularly constituted Council, Kyungu has 20, his sub-chiefs 61, and Mwafulirwa 10 Advisers (called Makambare in Nkonde) receiving pay totalling altogether £94 a year. These Advisers, partly traditional and partly appointed by the Chiefs and sub-chiefs, give advice in administrative matters and act as assessors in the Native Courts. Only a small number are said to be literate. There are in all 291 village Headmen, receiving pay amounting in all to £235 a year. Their appointment is "recommended" by the villagers for the approval of the sub-chief. Each of the Native Authorities has his own Treasury, and they have not so far combined together for this purpose.

¹ Kyungu is the traditional title of the Chiefs, not the personal name. There is an interesting study of the history and custom of the Ankonde by the late G. Wilson in *The Constitution of Ngonde*, No. 3 of the Rhodes-Livingstone Papers, 1939.

THE CHINTECHE NATIVE AUTHORITIES

In the Chinteche District the organization of Native Authority is the least effective in the Province. The first three Chiefs shown in the Statement control a mixed population of Atonga and Atumbuka. Boghoyo has jurisdiction over only six villages, but claims a special position owing to an Agreement made by Government in 1895, which guaranteed that the possession of the "villages and plantations" would be permanently secured to the people, while all the waste and unoccupied ground was placed at the disposal of the Crown. All these chiefdoms are hereditary, in the matrilineal line, and selection among members of the chiefly family is made by the senior Councillors.

All the Chiefs have Councillors or Advisers of whom a number are hereditary, while a few others are selected by the Chiefs. The English term Councillor used here and elsewhere in Nyasaland is a survival of the system instituted by the Ordinance of 1912 which, as will be recalled, provided for a small Sectional Council attached to each Principal Headman. The term is now sometimes used to denote a Group Headman, at others an Adviser, at others a Court Assessor, but in each case it connotes that the Councillor receives a small salary from Native Authority funds. Here the most definite function of the Councillor is to act as part of the Chiefs' Court. The Chiefs have between them 94 village headmen, whose joint pay amounted in 1947 to £46 a year.

The former Atonga Tribal Council was in fact only a moot of village headmen, which seldom acted as a body and had no authority over individual headmen. It was dissolved in 1948, and with the assent of the headmen concerned two new Native Authority areas were created. The area north of the Luweya River is now under Chief Mankhambira as Native Authority, while for the time being the functions of the Native Authority for the area south of the River are exercised by the District Commissioner working through a number of group Councils.

The small Likoma Island Council, with the Chizumulu Council subordinate to it, consists of a President and six headmen from the Anyanja people living on the Island. They have attached to them three Councillors drawing jointly £5 a year, and 12 village headmen drawing jointly £17 a year.

There has been no formal federation of the six Native Authorities, but all have accepted the establishment of a common Treasury.

THE MZIMBA NATIVE AUTHORITIES

In the Mzimba District the Native Authority organization is more firmly established than in Chinteche. Of the three Chiefs shown in the Statement, Chief M'belwa is the most important, controlling a population of 134,000, and he has the prestige derived from direct descent from the original Angoni leader. Six of his sub-chiefs are gazetted as Subordinate Native Authorities, and occupy a more or less independent position, being subject to little personal control from M'belwa himself. Chief Chikulamaembe has in his jurisdiction about 18,000 people and Chief Katumbi 4,000. Both these Chiefs are active and exercise a useful measure of control over their people. All three chiefdoms are hereditary, in the patrilineal line, as are also the sub-chiefdoms, the customary procedure being for the Elders of the area to choose the most suitable member of the ruling family and present him to the people as Chief.

In the case of sub-chiefs the choice is confirmed by the Head Chief. All three Chiefs and eleven of their sub-chiefs are literate.

Chief M'mbelwa holds a half yearly tribal *ndaba*, the M'belwa Jere Administrative meeting, which is attended not only by his traditional Advisers, but by a very large number of other people, including ministers of religion and teachers. There is a regular record kept of the proceedings at these meetings, which deal with a number of subjects of local administrative interest. Each of the Chiefs has a number of Councillors or Advisers who for the most part hold hereditary posts, and receive minor salaries; some of them also have charge of groups of 10 to 15 villages, and rank in importance with the hereditary sub-chiefs. The village headmen are "recommended" by villagers after selection from traditional families, but the posts are to a large extent hereditary.

Each Native Authority has its own Treasury, and though efforts have been made to secure their amalgamation, these have not so far succeeded. M'mbelwa in particular fears that he may have to "carry" the weaker Native Authorities, and they in their turn are afraid of being absorbed by him. The eleven sub-chiefs of M'mbelwa and Chikulamaembe have sub-treasuries, but these are maintained only for accounting purposes.

THE WORKING OF THE NATIVE AUTHORITY SYSTEM

Looking now at the working of this system in the Province as a whole, it is obvious that it relies in the fullest sense on the utilization of traditional institutions. No provision exists by which any person not possessing traditional status can share, as of right, the work of the organization, and much depends accordingly on the character of the Chiefs and sub-chiefs who constitute the Native Authorities. These are strongest in Mzimba District. In Chinteché District, apart from the weakness shown by the former Tonga Tribal Council, one of the principal Native Authorities, Mbwana, has developed defects which have caused his own people to force him to retire. The Native Authorities have, on the whole, proved to be useful agencies in maintaining order and in the collection of tax, but some of the officers who have had longest experience of the Province speak of the stagnation of the present system and the growing decline of the influence possessed by the traditional authorities. There are, again, complaints of the growing lack of contact between the Chiefs and the people; the Chiefs, it is said, keep close contact with the District Headquarters, but very little with their rural areas. A proposal has been made to provide some remedy for this by the establishment of local Councils on a regular scale, extending down to the villages.¹

THE FINANCES OF THE NATIVE TREASURIES

The efficiency of the Native Authorities in other aspects of local government can best be judged by reference to the operation of their Treasuries. The figures on page 36 are taken from the estimates of 1947.

The preparation of estimates and control of expenditure is a matter in which the Native Authorities are still able to take little or no part. But they collect the Native Tax, utilizing for the purpose the service of tax clerks, whose pay is refunded to the Native Treasury by the Government, and they appear to function in this respect with fair though not complete efficiency. This tax

¹ Provincial Commissioners' Reports, 1947, page 37.

REVENUE

District	Balance from 1936 £	Share of Native Tax £	Other Revenue (Court fees, etc.) £	Non re- current revenue (grants-in- aid, etc.) £	Total revenue excluding opening balance. £
Karonga	874	654	961	841	2,456
Chinteche	883	535	494	273	1,252
Mzimba	3,107	1,586	1,386	669	3,641
Total	4,814	2,775	2,841	1,783	7,399

EXPENDITURE

District	Personal Emoluments £	Other Charges £	Extraordinary £	Total Expenditure £
Karonga	1,100	494	1,197	2,791
Chinteche	934	340	474	1,748
Mzimba	2,212	797	2,360	5,369
Total	4,246	1,631	4,031	9,908

had up to 1948 been 8s., 8½s. and 9s. in the different Districts (with a special rate of 7s. in Likoma), the Native Treasuries receiving a rebate of 1s. per poll. From 1948 it has been raised to a general rate of 10s. (with 8s. in Likoma), the rebate being raised to 2s. per poll. There has hitherto been no local Native Authority rate, but it was announced in 1948 that the Native Authorities would levy a rate of 1s. per taxpayer in 1949.

THE PROVISION OF LOCAL SERVICES

A total expenditure of £9,908 a year, of which £4,246 is spent on Personal Emoluments, leaves little for expenditure on general services to the community. The Native Authorities maintain no police or prisons; they have no schools of their own; their only contribution to health services is the maintenance of a few "sanitary capitaos"; they contribute nothing to the work of the Agricultural Department, either in regard to soil conservation or otherwise. Their most substantial services are the maintenance of a certain length of secondary roads, a number of Native Authority buildings of a very moderate standard, and (in one part of Mzimba) the up-keep and staffing of markets.

THE USE OF RULE-MAKING POWERS

The Native Authorities have made only a limited use of their rule-making powers under Section 18 of the Native Authority Ordinance. Most of the small list of Rules made by them refer to administrative matters—such as the control of intoxicating liquors, regulations about making of canoes, marketing Rules or reporting of infectious disease. There are no Rules directly modifying native law or custom, though it is interesting to note that the registration of

non-Christian marriages, which was once voluntary, has now been made compulsory. Most of these Rules are said to have been due to suggestions made by Government Officers.

THE NATIVE COURTS

The formation of the Native Courts follows closely that of the Native Authorities. Their prevailing characteristic is that their composition is determined by local custom, and the Protectorate Administration does not attempt to regulate either the personnel or the size of the sitting benches. Normally however the Chief, who almost invariably presides, has a panel of Advisers (akulu) from whom he selects the benches, but this procedure is not regulated by any definite system of rotation.

Five of the Chiefs have A Courts, which besides exercising original powers, also constitute Appeal Courts from the B Courts held by their sub-chiefs. The appeals from the A Courts in both their original and appellate capacity go to the District Commissioner. Four of the Chiefs, the Likoma Council and the Chizumulu sub-council have B Courts, and 19 of the sub-chiefs have B Courts. The appeals from the Chiefs holding B Courts go to the District Commissioner ; those from the sub-chiefs go to the A Court of the Chief in whose jurisdiction they lie. Up to the present the Chiefs have not combined to constitute a joint Native Court of Appeal, capable of dealing with appeals from the A Courts of the Chiefs.

THE STATISTICS OF COURT CASES.

As regards the work of the judicial organization the figures for the year 1947 were as follows :—

District	Civil Cases	Criminal Cases	Appeals
Karonga ..	3,272	580	There were 52 appeals to Native Courts, 74 to Native Appeal Courts, 24 to the District Commissioner, 4 to the Provincial Commissioner, 1 to the Judge of the High Court.
Chinteché ..	847	471	
Mzimba.. ..	1,006	538	
Total ..	5,125	1,589	

Of the criminal cases 244 related to offences against Orders or Rules made under Sections 8 and 12 of the Native Authority Ordinance, and 569 to offences against Ordinances, the number of true criminal offences (i.e. against person or property) being negligible. While the opinion is generally expressed that the conduct of the Native Courts does not give rise to any general complaint, it is not easy to form any judgment on the matter, as it is clear that their inspection has suffered partly from shortage of staff during war years and partly from the fact that Administrative Officers have not been acquainted with certain of the languages in local use. It is, however, a usual complaint that punishments or compensation are awarded on a standard scale which admits of no discrimination between different degrees of culpability and that Chiefs are very diffident to enforce their own judgments.

SECTION III

CENTRAL PROVINCE

GENERAL

THERE is a material difference between the general conditions of the Northern and the Central Provinces.¹ In three at least of the Districts of the Central Province there is a far greater density of population. In three of them also there are considerable European holdings, Lilongwe in particular having over sixty such estates, and though these occupy only 2½ per cent. of the total area of the District, they are situated in the most fertile portion of its land. There is again in the Central Province a large production of economic crops, and in this respect Lilongwe again stands out, having a greater production of tobacco than any other District of the Protectorate, and a considerable production of maize.² There is also, as for example in Dezda, a considerable production of cotton. The extent of economic cultivation no doubt accounts for the fact that there has of recent years been a relatively lower proportion of emigration from the Central than from the Northern Province.

THE DOWA DISTRICT

The present Dowa District is an amalgamation of the former Kasungu and Dowa Districts. The principal tribes are Achewa-Achipeta (140,705), Angoni (22,868), Yao (4,509) and Atumbuka (1,912). The Achewa are part of the Anyanja stock, who though not indigenous have been in the area longer than most other tribes; their arrival may be put approximately in the sixteenth century, if not later:

The name "Achipeta" is said to be a derogatory designation due to the tribesmen's habit of concealing themselves in the long grass in time of trouble. They speak Chichewa, which is practically synonymous with Chinyanja. The Angoni have widely intermarried with the Achewa and Atumbuka, and have nearly everywhere adopted the Chichewa language. The Yao, who are predominantly Muslim, are mostly found on the Lake shore.

THE KOTA KOTA DISTRICT

Kota Kota District (of which about one-third is practically uninhabited) was formed round the coastal town of Kota-Kota, a centre of Arab slave trade in the middle of the last century. Up to 1889 it was in charge of a Jumbe

¹ The following figures are from the 1945 Census.

District	Land Area in Square miles	Population	Density per Square Mile
Dowa	5,141	171,392	33·33
Kota Kota	2,418	75,522	31·23
Lilongwe	3,576	273,444	70·73
Dedza	1,818	142,324	78·30
Ncheu	1,002	87,690	80·30
Total	13,955	750,372	53·77

² In 1945 the production of tobacco on private estates in Lilongwe was 4,739,000 lbs. and on Native Trust Lands 4,896,706. The total production of Nyasaland was 18,352,851 lbs.

nominally representing the Sultan of Zanzibar but in fact more or less independent of him. The principal tribe is the Achewa-Achipeta (68,122), but there are also a certain number of Angoni (4,838) and Atonga (2,071).

THE LILONGWE DISTRICT

The Lilongwe District, which includes the former small Fort Manning District, forms part of the Central Angoniland plateau.¹ Reference has already been made to its importance in respect of European settlement and the production of tobacco and other economic crops. The principal tribe here is the Achewa-Achipeta (243,915). The Angoni (23,238) have here as elsewhere become assimilated with their indigenous neighbours. The Yao (4,508) are a relatively small community which has come from the Lake coastal area to seek work.

THE DEDZA DISTRICT

Dedza District is, after Lilongwe, the largest producer in the Province of economic crops, of which the principal is here maize. The largest tribes are the Achewa-Achipeta (95,440), Yao (21,258), Angoni (14,757) and Anyanja (10,187), but here, as elsewhere, intermarriage has tended to blur tribal distinctions. The Angoni now speak a dialect of the Chinyanja language. The Yao have not here intermarried with the indigenous tribes to the same extent as the Angoni.

THE NCHEU DISTRICT

Ncheu District is in area the smallest in the Province but has the greatest density of population. It produces some tobacco, but much of the land is now said to be overcropped and the serious growth of soil deterioration has led to the framing of the Soil Conservation and Land Usage Scheme in the Livulezi Valley, which has been in operation since 1944 and has already achieved considerable success. A marked feature of this scheme is the extent to which the application of the Destocking Rules has been accepted by the people.² There has been a considerable emigration from the District, the figure of absentees recorded in 1945 (7,957) being high in relation to the total population. The dominant tribe here is the Angoni (15,242), though its number is much less than that of the Anyanja (60,400), who are a mixed body of Antumba, Mang'anja, Malawi and Achewa. As will be seen subsequently, the Angoni provide the sole Native Authority for the District.

THE FORMATION OF THE NATIVE AUTHORITY SYSTEM

As in the Northern Province, the Ordinance of 1912 divided the Districts into Administrative Sections under Principal Headmen, but in very many instances the Principal Headmen were tribal Chiefs. Thus in the former Kasungu District (now part of Dowa District) all three Sections, and in Dedza nine Sections were in charge of tribal Chiefs. In Kota Kota all seven Sections, with the exception of the Likoma Islands (then included in Kota Kota District) were similarly in charge of tribal Chiefs; in Lilongwe the Principal Headmen of four out of the six Sections, and in Ncheu District the single Principal Headman were also tribal Chiefs.

The present formation of Native Authorities is shown in the following statement.

¹ Central Angoniland is the name given to a group of Districts which include Dedza, Lilongwe and the old Fort Manning Division.

² Provincial Commissioners' Reports, 1947, page 21.

District	Native Authorities	Sub-chiefs gazetted as Subordinate Native Authorities	Salaries of Native Authorities	Others
Dowa ..	(a) The Kasungu Chiefs Two (Achewa) (b) The Dowa Chiefs Two (Achewa) Two (Angoni) Two (Yao)	2 sub-chiefs	One £180, one £50 £30 to £80	Sub-chiefs £18
Kota Kota	Four (Achewa) One (Nyamwezi) One (Angoni)	2 sub-chiefs	£18 to £50	Paid Councillors receive £18 a year
Lilongwe ..	Ten (Achewa-Achিপeta) Two (Angoni)	2 sub-chiefs 2 headmen	£25 to £80	93 paid Councillors (including map-hungu) receive a total of £228 a year. 66 paid Councillors receive a total of £317 a year
Dedza ..	Two (Angoni) Two (Achewa) Two (Yao)	2 sub-chiefs	£47 to £100	33 Councillors receiving £20 to £30 a year
Ncheu ..	One (Angoni)	2 (Angoni) 1. (Antamba-Anyanja) 3 (Anjina)	£180	Sub-chiefs £23-£41 p.a., 18 paid Councillors, with £4 to £8 p.a. 21 Court Elders £1 10s.-£4 p.a.

The rates of salary given in this Statement are those of 1947, but as in the Northern Province, a considerable increase of salary was being made in 1948. Thus, for example, the salaries of the Lilongwe Chiefs, which were £25 to £80 in 1947, were to be £38 to £120; that of the Angoni Chief in Ncheu, which was £180 in 1947, was increased to £220, and that of his sub-chiefs, which was £23 to £41 in 1947, was to be £36 to £60.

THE DOWA NATIVE AUTHORITIES

In the Dowa District all the eight chiefdoms are hereditary, in the sense that a successor is selected by Elders from the chiefly family, the Angoni following the patrilineal and the others the matrilineal rule of succession. The most prominent of the Native Authorities in the District is Chief Mwase who holds a large Chewa chiefdom of considerable historic importance, and has the highest salary. He is literate, with a knowledge of English; the others have only an elementary literacy.

The Chiefs hold meetings of their village headmen, but have no formally constituted Councils. They have, however, a number of hereditary Elders and also a number of paid Councillors,¹ some of whom are Senior Headmen, holding administrative charge of groups of villages, while others act as Court Assessors (akulu).

The Native Authorities have combined to form two Councils, the Council of Dowa Chiefs and that of the Kasungu-Achewa Federation, these representing the two separate Districts now amalgamated in the existing Dowa District. The two Councils were gazetted in 1940 as Native Authorities, but in practice

¹ For the use of the term Councillor in Nyasaland see page 34.

they exercise only Rule-making powers, and they do not intervene in the internal affairs of the individual chiefdoms. Each Council has a Treasury. It may be said however that these federations have a nominal rather than a practical value, and at present have significance mainly as providing an Appeal Court.¹

THE KOTA KOTA NATIVE AUTHORITIES

In the Kota Kota District all chiefdoms are hereditary, in the matrilineal line. Most of the Chiefs are backward in point of education, but two are described as having elementary literacy. Each Chief has regular meetings of the traditional Elders, on whose support they are said to be very dependent, and he has also a small number of hereditary Councillors, generally Group Headmen, who receive a salary as Councillors.

The Chiefs are combined in a Council of Kota Kota Chiefs, which is gazetted as a Native Authority, and as such exercises Rule-making powers, though in practice it has no authority over the individual Native Authorities. The six Native Authorities and the subordinate Native Authority attend its meetings, usually accompanied by one of their Advisers or Councillors. It does not elect its own Chairman, and the District Commissioner normally presides over its meetings. The Council has a Native Treasury, to which the six Native Authorities act in effect as sub-treasuries. Here also the federation of Chiefs is largely nominal, but it provides an Appeal Court.

THE LILONGWE NATIVE AUTHORITIES

In the Lilongwe District, the chiefdoms are also hereditary in the sense previously used. As is usual elsewhere, the Achewa here follow the matrilineal and the Angoni the patrilineal system. In one chiefdom, that of Kalolo, the Chief is by tradition a female.

The majority of the people under the jurisdiction of the two Angoni Native Authorities are Achewa, but the Angoni conquest is held to have given them a traditional right to the chiefdom. It is customary in this District for the Elders, after discussing the question of succession, to call a public meeting at which the claims of candidates are heard and the successor finally named. It is not uncommon for a number of candidates from the chiefly family to be considered for the succession, and there have been occasions when a candidate's character or education has resulted in his being chosen by the people in preference to those who had a more direct title under the customary law of succession. The District Commissioner usually presides at these meetings.

All the Chiefs are literate in various degrees in the vernacular, and one is said to be an outstanding man in the District, though some of the rest are characterized as wanting in personality and strength of character. There are a number of sub-chiefs (maphungu) who also have hereditary status, but with the exception of the two who have been gazetted as Subordinate Native Authorities, they are not paid as such. There are, on the other hand, a number of persons shown in the preceding Statement who are paid as Councillors or as Advisers, though the distinction between these classes is not always clear.

The Councillors normally have charge of groups of villages on behalf of the Chief, and are said by some to have originally been clan leaders and by others to represent the former mwini dziko (plural eni dziko) or land authorities. They have an hereditary status. The Advisers are described as primarily

¹ See page 45.

Court officials, and are for the most part blood relations of the Chiefs, and as such provide the Elders who are primarily responsible for selecting a new Chief. There are in all 1,717 village headmen, recommended to the Chief by the elders of the family from among members of traditional families. They are paid according to the size of their villages, and their total pay will amount in 1948 to £1,591.

The twelve Native Authorities in this District have since 1941 been united in the Council of Lilongwe Chiefs. This Council has a much more substantial value than those referred to in the two Districts just noted. The Council meets monthly, has an elected President and appoints its own Secretary. It is significant that of recent years it has invited prominent non-official Africans to take part in its discussions. It has shown itself capable of taking a useful part in the preparation of the estimates of the Native Treasury, and it seems to have been able to ensure that proposals for passing Rules dealing with Native law and custom should be discussed by the Native Authorities with their people, thus securing a measure of popular assent before they are finally considered in the Council. Subsequent reference will be made to the position of the Council of Chiefs as an Appeal Court.¹

THE DEDZA NATIVE AUTHORITIES

In Dedza District a considerable number of Achewa are within the jurisdiction of the Angoni Chiefs. Both the Chiefdoms and sub-chiefdoms are hereditary, in the sense that this word has been previously used. Two of the Chiefs are stated to be literate in Chinyanja. They have in all 33 Councillors whose posts are hereditary, and a number of them act as Group Headmen. There are 950 village headmen with a pay of 10s. to £3 a year. It is stated that in Dedza the Chiefs, with possibly one exception, lack authority and a sense of responsibility, and that the Councillors and village headmen are the real backbone of local administration.

The six Native Authorities and the two Subordinate Native Authorities are federated in the Dedza Council of Chiefs, but though this has a joint Treasury, it appears to be in fact little more than a nominal union, and to provide only a body which the District Commissioner can consult and over which he presides. Its members do not take any useful part in the working of the Treasury or the preparation of its estimates.

THE NCHEU NATIVE AUTHORITIES

The Ncheu District is singular in having only one gazetted Native Authority, Chief Gomani of the Angoni tribe, but as shown in the Statement, he has six sub-chiefs who are gazetted as Subordinate Native Authorities. Of these two are Angoni, one is Antumba (Anyanja) and three are Anjina, belonging to a people who were brought from the south of the Zambezi River by the Angoni. The majority of these sub-chiefdoms are now recognized as hereditary; in the remainder succession is determined by the Councillors, but it is usually confined to certain traditional families.

The Native Authority and Subordinate Native Authorities have eighteen Councillors (masenga) and 21 Court Elders (akulu a bwalo) paid in 1947 at the rates shown in the Statement. The Councillors are not here hereditary

¹ See page 45.

nor are they Group Headmen ; their real position is that of Advisers. There are 580 village headmen, drawing in 1947 a total salary of £351. The position of village headmen is regarded as hereditary, subject to acceptance by the sub-chief.

As a Native Authority Gomani is active and commands very general respect, both in his own tribe and in the Protectorate generally. Of the sub-chiefs, five are literate, and two are said to be energetic and responsible. Gomani has no formally constituted Council, but has periodic meetings of his sub-chiefs and some of the Councillors, and they take an intelligent part in the work of the Treasury of the Native Authority. It is noteworthy also that a conference of what is known as the Ngoni Highlands Association meets annually at the grave of Gomani's father. It is attended by large numbers of people and has been described as a forum at which the people can express their views on matters which concern the District generally. The Chairman and Secretary are elected by the members, and the Chief attends as an observer.

THE WORKING OF THE SYSTEM OF NATIVE AUTHORITIES

In attempting to assess the results achieved by the working of the present system, one cannot fail to remark the difference in the quality of the Native Authorities as now constituted. Some of them are tribal leaders in the true sense, and command the implicit respect and support of their own communities. The jurisdiction of others extends over a variety of tribes, and the tradition of conquest or prestige to which they originally owed their position has no longer the same force. Some of the Administrative Officers moreover who are best acquainted with the Province have been impressed by the loosening of tribal and other traditional ties as the result of economic developments during the last generation, and not least of all by the experiences gained by emigrants in the course of their residence in other territories. While it has been possible to point in the preceding pages to some instances in which the Native Authorities have given evidence of the possession of adequate authority and of a sense of responsibility in its use, there are many others in which the impressions which can be drawn are far less favourable. Nor does the process of federating or amalgamating the different Native Authorities seem so far to have added any great strength to the system. The movement for amalgamation was entirely in the right direction, but save in one case, namely Lilongwe, it has not achieved the results which were at one time expected of it.

On the executive side, the Native Authorities here, as in the Northern Province, seem to have had their chief value as agencies for maintenance of law and order, though in that respect many officers of the Administration have expressed the opinion that the most effective contribution has been made by the sub-chiefs and village headmen, who are in the closest contact with the people. The services rendered to the community by Native Authorities in the field of local government can be illustrated by the following figures of the operation of the Native Treasuries as shown in the accounts for 1947.

The Native Tax is collected by the Native Authorities through the Tax Clerks, but in some Districts it is stated that the Chiefs have in fact only a nominal responsibility in this matter. The Tax, which in 1947 varied from 7s. to 9s. in different Districts, with a rebate of 1s. to the Native Treasuries, was raised to a uniform rate of 10s. in 1948, with a rebate to the Treasuries of 2s. per poll.

REVENUE

District	Balance from 1946	Share of Native Tax	Other Revenue including that from Courts	Non-recurring grants-in-aid	Total receipts excluding opening balance
Dowa	£ 2,946	£ 1,970	£ 2,103	£ 361	£ 4,434
Kota Kota	483	890	1,785	673	2,898
Lilongwe	5,133	2,685	5,131	—	7,816
Dedza	4,612	1,542	2,705	—	4,247
Ncheu	1,653	1,040	2,577	—	3,617
Total	14,827	8,127	14,301	1,034	23,462

EXPENDITURE

District	Personal Emoluments	Other Charges	Extra-ordinary	Total Expenditure	Balance to 1948
Dowa	£ 3,209	£ 947	£ 991	£ 5,147	£ 2,233
Kota Kota	2,088	620	640	3,348	483
Lilongwe	5,751	1,731	1,305	8,787	4,162
Dedza	2,746	1,059	1,205	5,028	3,831
Ncheu	1,873	1,583	300	3,756	1,514
Total	15,685	5,940	4,441	26,066	12,223

The item of Personal Emoluments includes the pay of clerks and other employees of the Native Authorities. Though, however, the salaries paid to Chiefs, sub-chiefs and their Councillors or Advisors have, as has been shown, hitherto been on a low scale, the item of Personal Emoluments accounted in 1947 for over 61 per cent of the relatively small sum of £26,066 expended by the Native Authorities.

Their contribution to education is limited to assistance given to the Missions in the construction of schools; they have constructed the buildings of a certain number of dispensaries and in some cases maintain "sanitary capitaos"; in two cases they have maintained a number of "community workers" trained at the Jeanes School; in two others they have assisted the Forest Department by maintaining Forest Guards. They have maintained a number of subsidiary roads, and in three Districts have built and managed produce markets. In only two cases (Ncheu and Lilongwe) can they be said to have shown any active interest in the measures taken by the Agricultural Department in the matter of soil conservation, while in other cases, their attitude is said to have been one of apathy or neglect.

THE USE OF RULE-MAKING POWERS

In most of the Districts the list of Rules made by Native Authorities under Section 18 of the Ordinance is a short one. These Rules deal mainly with matters such as licenses for brewing liquor, registration of births and deaths and of non-Christian marriages, the regulation of markets or fishing or the making of canoes. In two of the Districts Rules have been made for the control of emigration. In Ncheu the interest taken by the Native Authority in the Livulezi Valley Scheme has resulted in the passing of Rules—the Soil Conservation and Land Usage Rules—which are said to have proved to be of much assistance to the Agricultural Officers in charge of the operations.

The list of Rules contains only one which can be said to deal primarily with native custom, that namely passed in Lilongwe for the prohibition of the Vinyau dance—a practice which has from early times been attacked by Missionary bodies. Matters connected with native law and custom have more frequently formed the subject of Orders passed under Section 8, as for instance the Order issued in 1942 by the Native Authority of Ncheu dealing with divorce procedure, and the Order of 1945 dealing with the establishment of new villages.

THE ORGANIZATION OF THE NATIVE COURTS

While the system of Native Courts follows the same general lines as in the Northern Province, there is one material difference in the fact that the Councils of Chiefs to which reference has been made above provide in the Central Province the basis for the Native Appeal Courts. The procedure followed in the grant of powers to the Courts of original jurisdiction varies in the different Districts and the results are best seen from the following Statement:—

District	
Dowa	<p>(a) <i>The Kasungu Chiefs</i> : One Chief has an A Court, with 4 Subordinate B Courts, their appeals lying to the Chief's A Court. One Chief has a B Court, with appeal to the District Commissioner.</p> <p>(b) <i>The Dowa Chiefs</i> : The Dowa Council of Chiefs has a Court with B powers. Six Chiefs have B Courts, with appeal to Council of Dowa Chiefs. There are two Subordinate B Courts with appeal to the B Court of the Chief in whose jurisdiction they lie.</p>
Kota Kota	<p>The Kota Kota Council of Chiefs has a Court with A powers. Six Chiefs have B Courts, with appeal to the Kota Kota Council of Chiefs. There are two Subordinate Courts with B powers, with appeal to the Chiefs in whose jurisdiction they lie.</p>
Lilongwe	<p>The Lilongwe Council of Chiefs has a Court with A powers. Twelve Chiefs have Courts with B powers, with appeal to the Lilongwe Council of Chiefs. There are two Sub-chiefs' Courts with B powers and 2 Group headmen's Courts with C powers } with appeal to the Chief in whose jurisdiction they lie.</p>
Dezda	<p>The Dezda Council of Chiefs has a Court with A powers. Six Chiefs have Courts with B powers, with appeal to the Dezda Council of Chiefs. Two Subordinate Native Authorities have C Courts with appeal to the Court of their Native Authority.</p>
Ncheu	<p>The Native Authority has a Court with A powers. The six Subordinate Native Authorities have B Courts with appeal to the Court of the Native Authority.</p>

As will be seen, there are thus a certain number of cases in which a Native Court, holding only B powers is also a Court of Appeal from Courts also holding B powers. This is anomalous, but the formation of the Courts is still in process of adjustment.

As in the Northern Province, the composition of the Courts is determined by custom, and is not laid down in the warrants. In practice, however, the Courts are usually composed of four (or in some Districts three) Assessors (akulu) or Councillors, chosen by the Chief from among traditional Elders, and sitting under his presidency. The Courts of the Councils of Chiefs choose their own President.

THE STATISTICS OF COURT CASES

The extent to which recourse is made to the Native Courts is shown in the following figures for the year 1947.

District	Civil Cases	Criminal Cases	Total	Appeals
Dowa ..	1,087	1,809	2,896	There were 10 appeals to Native Courts; 76 appeals to Native Courts of Appeal; 9 to the District Commissioner; 1 to the Provincial Commissioner; none to the High Court
Kota Kota	1,086	963	2,049	
Lilongwe ..	462	2,614	3,076	
Dezda ..	757	1,136	1,893	
Ncheu ..	320	1,696	2,016	
Total ..	3,712	8,218	11,930	

No figures have been recorded showing the use of their revisionary powers by District Commissioners. It is noteworthy that imprisonment was awarded in only 37 cases, the ordinary sentence being one of fine or compensation. Here as elsewhere in Nyasaland the Native Courts make very small use of their powers to inflict sentences of whipping, and as shown by the debates in the African Protectorate Council for 1947,¹ the abolition of this form of punishment has been contemplated by the Protectorate Government.

All sentences of imprisonment are summarily reviewed by an Administrative Officer before the condemned person is committed by him to the Government jail; the Native Authorities do not maintain jails. It is difficult to judge how far the small number of appeals to District Commissioners reflects a general satisfaction with the manner in which justice is administered, for, apart from other considerations, there must always be some reluctance to appeal against the decision of a Chief. Administrative Officers point to a few instances in which Courts have been judged to be partial or corrupt, but charges of misconduct have been made by a number of Missionaries and have also been voiced by the educated element represented in the African Congress.

¹ See page 66.

SECTION IV

SOUTHERN PROVINCE

GENERAL

UP to 1945 the Southern Province contained ten Districts, but these were reduced to six in the course of administrative readjustments made in 1946 and 1947.¹ These Districts present conditions more complex than those of either of the two Provinces already surveyed. In the first place the mass migration of Yao caused a disintegration of the indigenous Anyanja tribes far greater than elsewhere. The Yao in the Southern Province now number 247,470 out of the total Yao population of 281,177 in the Protectorate, and roughly equal those classed as Anyanja (241,373). The intermarriage which has taken place between the Yao and the Anyanja and to some extent the Angoni has accelerated the loosening of tribal organization, and the more so, because most of the Yao are Muslims.

In the second place, the Southern Province contains the chief centres of European enterprise. Out of the 1,207,000 acres alienated in freehold in the Protectorate, 905,780 are in three of the Districts of the Southern Province, and this has not only caused the political and economic difficulties which have arisen in connection with the status of the Resident Labour on European estates,² but has created, from the point of view of native administration, a difficult situation in regard to the jurisdiction of the Native Authorities. In the Census of 1945, 173,000 natives were recorded as living on the private estates, and in some instances the Native Authorities themselves were resident on them.

¹ The following figures are from the Census Report of 1945:

Present District	Former District	Land Area in Square Miles	Population	Density per Square Mile
Fort Johnston	Fort Johnston and part of Liwonde	2,518	111,621	44.32
Zomba	Zomba and part of Liwonde	903	137,603	152.40
Blantyre	Blantyre, Neno, Chiradzulu	2,071	211,016	101.89
Lower River	Port Herald, Chikwawa ..	2,644	126,410	47.87
Cholo	Cholo	624	119,746	191.90
Mlanje	Mlanje	1,511	209,522	138.66
	Total	10,271	915,918	89.18

The figures given above for Fort Johnston and Zomba are those recorded for the original Districts in 1945. The figures for Liwonde District, which has now been divided between the two were: area 1,843 square miles, population 87,682, density 17.79 per square mile.

² See page 62.

Thirdly, various circumstances, and among them the prospect of securing employment in the tobacco and tea industries, have resulted in the large scale immigration from Portuguese territory to which reference has already been made in Section I, and which has almost entirely concentrated on this Province. Of the 379,638 people classed as Anguru (Alomwe) in the Census of 1945, no less than 373,371 were living in the Shire Highlands. Though these immigrants have been to a great measure assimilated and have not sought to obtain the appointment of their own Chiefs, their presence has undoubtedly been another factor affecting the strength of tribal ties. Finally, the Southern Districts, and noticeably Zomba and Blantyre, are the headquarters of the African Congress, some of whose members have begun to take an active interest in the affairs of the Native Authorities.

THE FORT JOHNSTON DISTRICT

Of the six Districts in the Province, Fort Johnston District, originally designated the South Nyasa District, has since 1947 included the Nyambi and Kalembo areas of the former Liwonde District. Except in the Namweras area, there has here been little alienation of land, and the problem of the Resident Labourer is not important. There is little production of tobacco, but there is a considerable cultivation of rice in the flooded areas near the Lake. From the point of subsistence cultivation, however, the District is not well situated, and experience shows that it is liable to a periodical shortage in the outturn of foodstuffs.

The Census figures of tribal distribution are only available for the original Fort Johnston area, but they have not been greatly affected by the incorporation from the Liwonde District of the two areas mentioned above. The figures were Yao 85,040, Anyanja (mainly Mang'anja) 18,763, and Anguru (Alomwe) 5,090. This District is the main reservoir of the Yao in Nyasaland, and it is noteworthy that they have not here intermarried with the indigenous tribes to the same extent as elsewhere.

ZOMBA DISTRICT

Zomba District, as already explained, now contains the remaining part of the former Liwonde District. Unlike the Fort Johnston District, much of the land, indeed about 70 per cent. of the total area, has been alienated to Europeans, and there is a large native population living on the estates, working in this case not as labourers but as tenants. The estates produce a considerable quantity of tobacco, which is purchased by the estate owners from the tenants. Very little tobacco is produced on the Native Trust Lands, and both these lands and the estate lands have suffered badly from erosion.

Correct figures are not available for the tribal distribution of the Zomba District as now constituted, but the Census figures of the original Zomba District recorded 48,430 Anguru (Alomwe, Ampotola, etc.); 44,305 Anyanja (Mang'anja and Malavi); 36,932 Yao; and 6,972 Angoni. A large number of the Anguru are immigrants of old standing, as they are said to have accompanied the Yao when the latter moved into the District, but the number of Anguru was increased by the influx from Portuguese territory in the years 1930 to 1933. It is noteworthy that the tax in Portuguese East Africa was during those years raised from 15s. to 25s., with an extra 25s. for each additional wife. It is understood that each male had to do nine months continuous work during every three years, either for the Government or on European estates, but was

exempted from tax in the third year if he had completed his nine months work. The influx of immigrants has, however, fallen off during recent years. As noted elsewhere, the immigrant Anguru have become assimilated with the other tribes, and the Yao themselves are now a mixed race of Yao, Anguru (Ampotola) and Anyanja; it is indeed said to be difficult to distinguish between the various tribes in the District.

THE BLANTYRE DISTRICT

The Blantyre District has since 1946 incorporated the former Districts of Neno and Chiradzulu. As in Zomba, much land has been alienated to Europeans, especially in the old Blantyre District. In all, about one-third of the combined Districts has been alienated, and roughly two-thirds of the population of the old Blantyre District lives on the private estates. On the largest of these estates the tenants are regarded as Resident Labour and paid as such, all crops produced being the property of the Company. Other estates use the tenant farmer system, and buy the crop—mainly tobacco—from the tenants. There is a marked degree of congestion in the former Chiradzulu District, the density (391 to the square mile) being greater than in any other District of the Protectorate.

The Census of 1945 showed the distribution of the chief tribes as Anguru (Alomwe, Ampotola, etc.) 63,365; Yao 57,444; Anyanja (Mang'anja) 41,805; Angoni 40,090; and Achikunde (Asena, etc.) 6,638. The influx of Anguru from Portuguese East Africa has ceased of late years, among other reasons because a considerable proportion of the combined Districts is now approaching the saturation point. In this connection it is noteworthy that the Native Authorities have used their powers to issue an Order under Section 8 of the Ordinance to prohibit natives from Portuguese East Africa from settling in the District without a pass from a Native Authority, countersigned by the District Commissioner. As elsewhere, there has been general intermarriage between the various tribes, and Chi-nyanja is understood by all, though Chi-yao and Chi-omwe are also used to some extent.

THE LOWER RIVER DISTRICT

The Lower River District was formed in 1946 by the incorporation of the Chikwawa and Port Herald (once the Lower Shire) Districts. Lying in the lower levels below the Shire Highlands, this area was less affected by the incursions of the Yao or Angoni than any other of the southern Districts. There has also been comparatively little alienation to Europeans. There is a considerable production of cotton, but the European estate holders lost interest in its development after the slump of 1922, and it is now produced almost entirely on Native Trust Lands. The chief part of the population consist of the indigenous Anyanja (Mang'anja, etc.) numbering 54,316 and Achikunda or Asena (62,223). The Asena were the largest of a number of Zambezi tribes which are said to have followed the slave traders into Nyasaland some 80 years ago. They are closely allied to the Anyanja, and now form one people with them.

CHOLO DISTRICT

Cholo District, like Blantyre, contains a high proportion of alienated land, about two-thirds of the small area of the District being in European hands. The cultivation on the tea, tung and tobacco areas held by Europeans accounts for the large influx of labour from Portuguese East Africa, which has created a density of population (191.9 per square mile) second only to that of the former District of Chiradzulu. This immigration is of relatively recent date, the

increase of population between 1931 and 1945 having been over 97 per cent. The problems of native administration have thus been affected in two ways. About half the native population lives on the private estates, and no less than four of the six Native Authorities live on them and have jurisdiction over the natives in them. Secondly, the majority of the immigrant population are of a relatively primitive type, and though they have become assimilated with the indigenous tribes, have no natural respect for the authority of the Chiefs. "These immigrants," it has been said, "left Portuguese territory to escape obligations which they found tiresome there, and they do not intend to be inconvenienced in their new homes more than they can help."

The present distribution of the principal tribes is 23,315 Anyanja (mainly Mang'anja), 79,108 Anguru (Alomwe, Ankhkokola, etc.), 9,185 Angoni, and 6,393 Yao. The Mang'anja were the indigenous inhabitants, and are said to have originally consisted of small independent groups without allegiance to any important Chief. The Angoni are apparently the descendants of labourers imported from Ncheu District by the British Central Africa Company in 1893.

MLANJE DISTRICT

Mlanje District is typical of the changes undergone in some of the Shire Highlands Districts since the British occupation. Up to that time it was very sparsely occupied by Anyanja and Yao. It now has an alienated area of 80,000 acres, 45,000 of which is held in tea estates,¹ and a large population of Anguru (Alomwe) who have moved in from Portuguese East Africa. The actual distribution of the principal tribes in 1945 was Yao 11,684, Anyanja (Mang'anja, etc.) 45,190, and Anguru (Alomwe, Ampotola, etc.) 150,644. As elsewhere in the Shire Highlands it is said that owing to intermarriage and tribal fusion, it is now becoming difficult to distinguish the indigenous from the immigrant population, and Chinyanja has become the common lingua franca. There is considerable density of population, amounting in some areas to 350 per square mile. About 16,500 of the inhabitants are resident on the private estates.

THE FORMATION OF THE NATIVE AUTHORITY SYSTEM

It was with the areas in the Southern Province that the Protectorate Government came into closest contact at the outset of its rule, and it was doubtless observation of the structure of native society in them which decided it to adopt throughout the Protectorate the system of Administrative Sections under Principal Headmen rather than one based on the recognition of tribal chiefdoms. As a result there were many cases in which the Government, in the absence of Chiefs with recognizable authority, appointed as Principal Headmen men who had no traditional standing but who had for various reasons commended themselves to the local officers. Thus, to take the example of Cholo District, the six Principal Headmen comprised four Mang'anja described as "petty chiefs," one village headman of Angoni origin, and one man of Makololo origin who had come to the District as a labourer in 1893. In the Blantyre District one of the Principal Headmen had been the slave of a Yao Chief in Chiradzulu, and had become his principal Court Assessor and subsequently an official of the High Court; another was an elephant hunter with a local following. In the present Lower River District several of the Principal Headmen were Makololo. These men had an interesting history,

¹ Approximately 13,000 acres are actually under cultivation of tea.

being the descendants of a very small body of followers, brought from Northern Rhodesia by Livingstone and left by him in the old Chikwawa District of Nyasaland about 1863.¹

While there were a number of instances of this type, there were at the same time a few Principal Headmen who could more properly be described as having a tribal following. Thus there were certain of the Yao chiefdoms in which the Chiefs had an hereditary status, and the same is true of the Angoni; it is much less true of the Mang'anja or the immigrants from Portuguese East Africa. When, however, the Native Authority system was introduced in 1933 the general tendency was to appoint the Principal Headmen as Native Authorities. In some Districts this resulted in making an addition to the previous number of Principal Headmen, of whom there were normally only six in a District, thus providing a place for certain Chiefs who were recognized as having a tribal following.² But it had a further result. It became the tendency to regard all the Native Authorities alike as having the status of hereditary Chiefs.

It is no doubt somewhat paradoxical that the Protectorate Government should at one stage have formally refused to recognize the existence of tribal Chiefs in the Northern and Central Provinces, mainly because it found that the Southern Province had few or none of this class, and that it should at a later stage have been instrumental in creating hereditary tribal Chiefs in the Southern Province. But the creation of a class of hereditary Chiefs is not without precedent in Africa, and the expediency of the measure is not to be judged by any theoretical canon of policy, but by its practical results. It is no doubt difficult for a "created" Chief to make good in a community which already has well recognized traditional Chiefs; but in the absence of such Chiefs, a community will often be prepared to accept a "created" Chief of the right character and to accord his family an hereditary status. How far the creation of hereditary Native Authorities has succeeded in the Southern Province will be examined in the subsequent pages.

The following Statement gives the present formation of the Native Authorities. As in the statement given for the other Provinces, the salaries recorded are those of 1947, which were considerably increased in 1948:—

District	Native Authorities	Subordinate Native Authorities	Salary of Native Authorities	Salary of Subordinate N.A.'s	Others
Fort Johnston	7 (6 Yao, 1 Mang'anja)	1 (Yao)	£36 to £100	£10	24 paid Councillors £7 10s. to £9 a year
Zemba	8 (7 Yao, 1 Mang'anja)	6 (Yao)	£44 to £135	£12	36 paid Councillors
Blantyre	19 (9 Yao, 3 Mang'anja, 4 Angoni, 1 Ambo)	3 (Yao)	£36 to £120	£14	—
Lower River	14 (9 Mang'anja, 5 Makololo)	3 (Mang'anja)	£18 to £72	£12	34 Court Assessors
Cholo	6 (4 Mang'anja, 1 Angoni, 1 Makololo)	4 subchiefs holding Courts but not gazetted as Native Authorities	£48 to £72	£24	—
Mlanje	6 (3 Yao, 3 Mang'anja)	1 (Mang'anja)	£48 to £120	£15	101 Group Headmen, £2 to £13

¹ For the Makololo in Northern Rhodesia see Chapter VI, page 90.

² In examining the list of Native Authorities on page 51 it must be realized that some of the Districts, such as Blantyre and Lower River, which now have a large number of Authorities, represent an amalgamation of two of the previous Districts.

THE FORT JOHNSTON NATIVE AUTHORITIES

In the Fort Johnston District the distribution of chiefdoms is such that considerable numbers of Mang'anja fall within the jurisdiction of the six Yao Chiefs. All the chiefdoms are hereditary in the sense that a successor is selected from the chiefly family. It is a common experience that disputes about succession are more frequent when it follows, as among the Yao, the matrilineal rather than the patrilineal system. Among the Yao families, succession normally passes to the son of any of the sisters of a deceased Chief, the nomination of the heir being made in the first instance by the senior lady of the family, and if this is accepted by the rest of the family the village headmen are then asked if they accept the choice or wish to consider another nominee within the chiefly family. The matter is finally decided in a meeting of the village headmen over which the District Commissioner usually presides. To some extent therefore the final choice is a matter for popular decision.

Four out of the seven Chiefs are literate. As Native Authorities they are, with one notable exception, said to have a fair measure of control over the people, but—as is usually the case with the Yao—their position is one of spiritual rather than temporal leadership. There are twenty-four persons paid as Councillors.¹ They are selected from the village headmen, who number 360, and are chosen by the villagers by a procedure resembling that followed in the case of the Chiefs.

The Chiefs in Fort Johnston District are not formally federated as a Native Authority, but meet periodically in a District Council, attended by all the Chiefs and their Councillors. This body is in the nature of a conference, advisory to the District Commissioner, under whose presidency it meets. The Chiefs themselves, however, form a Court of Appeal, and also have a common Treasury. The preparation of the estimates and the working of the Treasury is a matter in which the Chiefs at present take hardly any part.

THE ZOMBA NATIVE AUTHORITIES

In Zomba District four of the Subordinate Native Authorities are under one Chief, Kawinga, belonging to the area transferred from the Liwonde District. One of the sub-chiefs resides on a private estate. The procedure for succession of Chiefs or sub-chiefs is the same as in the Fort Johnston District, but in practice the sub-chiefs usually belong to the same family as the Chief. Four of the Chiefs are literate in the vernacular. Everything tends to show that in the present day circumstances of the District, traditional or hereditary status carries far less weight than formerly; as has been stated "the position of the individual counts far more than traditional right." To this it may be added, that only two of the Native Authorities are described as possessing any outstanding merit, and that some are definitely the reverse. Each Chief has four or five paid Councillors who act as general advisors and also assist in trying cases. These are mostly village headmen, but here they are chosen by the Chief after consultation with the District Commissioner, and of recent years the latter has used his influence to secure the appointment of a certain number of persons outside the ranks of the village headmen, such as ex-teachers or ex-Non-Commission Officers. The village headmen number 1,428, and are paid sums varying from £1 to £5 a year.

The Native Authorities in Zomba District are not joined in any formal

¹ For use of term see page 34.

federation, but it has been customary for them to assemble periodically in an informal District Council, similar to that in the Fort Johnston District. The Chiefs join together in the same way, to form a Zomba Chiefs' Court for appellate purposes, and also one Treasury. They do not take any active part in the current work of the Treasury, and this remains a function of the District Commissioner.

THE BLANTYRE NATIVE AUTHORITIES

In the Blantyre District all the nineteen Native Authorities are now regarded as holding hereditary posts, though many of them have no long tradition behind them. Thus the Yao had originally only two hereditary chiefdoms, and some of the present hereditary Chiefs were headmen under them. Further instances have been quoted above of types of Principal Headmen who are now accepted as Native Authorities holding hereditary posts.¹ It is of interest to note that in this District the Angoni, who normally follow the patrilineal system have adopted from their neighbours the matrilineal system in the succession to the chiefdoms.

Of the existing 19 Chiefs, five are reported to be of real value, but the rest are said to be inefficient, though it should be noted that three of them live in unusually difficult conditions as residents on private estates. Eleven are literate in the vernacular. The Councillors or Advisers are in this District unpaid. There were at one time a number of Group Headmen in the old Neno and Chiradzulu Districts, but they were abolished when the system of Principal Headmen was instituted. There are 1,429 village headmen who in 1947 had a pay of 5s. to £2 a year.

In 1946 all the Chiefs were federated in the Blantyre Council of Chiefs which was gazetted as a Native Authority. This now exercises Rule-making powers for the whole District, though individual Chiefs retain their power to make Rules and Orders within their own jurisdictions. The Council elects its own chairman, and the Chiefs are accompanied to its quarterly meetings by their personal Councillors and some of the village headmen. The Native Authorities are united in a single Treasury.

There is in this District a recent development of unusual interest, which may if successful have an influence extending to other Districts in the territory. The Council of Chiefs has agreed to the formation of a Local Advisory Council in the area of each Native Authority, to which progressive and educated Africans, as well as headmen, are to be invited, and it is also intended to institute a District Advisory Council with representatives from these Local Advisory Councils.

THE LOWER RIVER NATIVE AUTHORITIES

In the Lower River District all the 14 chiefdoms are now treated as hereditary, including the Makololo, to whose history a reference has been made above.² Then Ayanja follow the matrilineal and the Makololo the patrilineal system in succession, the procedure for selection being in each case that described in dealing with the Fort Johnston District.

Seven of the Chiefs and sub-chiefs are described as able to read and write. The authority exercised by them is here also said to depend rather on their personality than on traditional status, but five are described as efficient, and the remainder as poor and showing little interest in their work. There are no

¹ See page 50.

² See page 50-51

paid Councillors, though the Chiefs have personal Advisers. There are 34 Court Assessors, paid small salaries from the Native Treasury. The village headmen, who number in all 688, hold traditional posts with an average pay in 1947 of 18s. a year.

The Chiefs in the Lower River District are not federated in a Council recognized as Native Authority, but meet periodically in two sectional conferences, one for the Port Herald and another for the Chikwawa area, sitting under the chairmanship of the leading Chiefs in each section. Each of the two sections has its own Treasury, but it may be noted that the resources available are of very small amount, the estimated revenue for 1947 being only £2,051 in the case of Port Herald and £1,807 in that of Chikwawa. The Chiefs take very little part in the work of the Treasury. For each of the two sections the Chiefs combine to form a Court of Appeal for the Courts in their section.

THE CHOLO NATIVE AUTHORITIES

In the Cholo District all the chiefdoms to whose origin reference has previously been made,¹ are now regarded as hereditary. The six Native Authorities have four sub-chiefs who are not gazetted as Subordinate Native Authorities, but preside over Native Courts. Four of the Chiefs have an elementary standard of literacy in the vernacular. As a body they are subject to the disabilities arising from living in areas of divided control, as already mentioned, but two are described as having a strong personality and progressive outlook.

The Native Authorities are federated in a Council of Cholo Chiefs which is gazetted as a Native Authority, and exercises in that capacity the Rule-making power in respect of all six Authorities. It also provides a Court with both original and appellate powers, and has a Treasury. It conducts its monthly meetings without a President or Chairman.

The Chiefs themselves have no regularly constituted Councils of their own, though they call occasional meetings of the village headmen in their jurisdiction. There are altogether 278 such headmen holding traditional posts, and drawing in 1947 an average salary of just over £2 a year. It is of interest to note, however, that in this District also proposals have been accepted by the Chiefs for creating for each Native Authority a Local Council which will include not only headmen but also outside elements such as teachers, traders and "educated commoners."

THE MLANJE NATIVE AUTHORITIES

In the Mlanje District the six Native Authorities, three of whom are Yao and three Mang'anja, are regarded as holding hereditary posts; they follow the matrilineal line of succession. It is noteworthy that in spite of the numerical preponderance of the Anguru they have not so far sought to have a Native Authority of their own. The District is singular in the fact that it retains the system of paid Group Headmen, a class which would in most other Districts now be included under the name of Councillors. They number 101 and received in 1948 pay at rates from £2 to £13 a year. They are chosen from the village headmen (who number 567) and both they and the headmen are nominated by villagers, but in the majority of cases the appointments are hereditary.

¹ See page 50.

All the Native Authorities save one are literate in varying degrees in the vernacular, and one, an Anyanja Chief, is singled out as exercising good authority over his area; of the rest, four are said to be moderately efficient and one completely inefficient. Two have been dismissed in the last ten years. The Chiefs have not so far been federated in a union capable of being recognized as a Native Authority, but have what is termed a District Council, though this is actually a meeting which assembles once a month for discussion with the District Commissioner and once a quarter for mutual discussion. On these latter occasions it has no recognized President or Chairman. The Chiefs have, however, united to form one Treasury, though its working seems to be almost entirely in the hands of the District Commissioner. They are united in a Court of Appeal, the Mlanje Chiefs' Court.

It is a feature of this District that there is in each Native Authority area a Local Advisory Committee appointed by the Chief. Though these Committees have a majority of Group Headmen, about one-third of the members are non-officials, including teachers, ex-clerks and the like. Some of these Local Committees keep regular minutes, and they are said to be of value in establishing contact between the Native Authorities and the people in their jurisdiction.

THE WORKING OF THE NATIVE AUTHORITIES

In considering the working of the organization of native administration two facts stand out. The first is the insistence by Administrative Officers that, in the present day conditions of the Province, the position of the Native Authorities tends now to depend on their personality rather than on their traditional status. In some cases, it is pointed out, the Chiefs have jurisdiction over a variety of tribes, large numbers of whom have no natural allegiance to them. In many other cases they have themselves no traditional status, since they had not the standing of Chiefs till they were given that position by Government. It is not unnatural to find in these circumstances that there are a relatively small number of Native Authorities who can be described as giving proof of individual energy or as efficient in discharge of their duties.

As a whole, the Native Authorities receive salaries which are by no means adequate for the maintenance of their position, and though these have been increased in 1948, the general level is still low. There are a considerable number who are illiterate, and few can be said to show any competence in dealing with the operations of their Treasuries. It is true that of recent years they have been utilized in the collection of the Native Tax, but in more than one case the part taken by Chiefs in this matter has been characterized as little more than nominal. It is significant in this connection that the Native Courts do not deal with charges of default in tax payment, a fact which imposes on District Commissioners an amount of judicial work which is avoided in most other territories.

The second of the two points above referred to relates to the measures so far taken to associate non-officials or "intelligent commoners" in the work of the Native Authorities. Though the conditions prevailing in the Province, as described in the opening paragraphs of this Section, are such as would seem to make it particularly important to give consideration to such measures, they appear to have been definitely contemplated in only three Districts, and there on a somewhat tentative scale. As will be subsequently shown, the composition

of the Native Courts, with the exception of two Districts, makes no provision for persons other than village headmen or persons holding similar traditional posts to serve on the bench.

THE PROVISION OF LOCAL SERVICES

THE FINANCES OF THE NATIVE TREASURIES

The figures below, taken from the estimates of 1947, will illustrate the range of activities of Native Authorities in regard to local government services.

REVENUE

District	Balance from 1946	Share of Native Tax	Other Recurrent Revenue (Courts, etc.)	Non-recurrent Revenue, (Grants-in-aid, etc.)	Total receipts excluding opening balance
Fort Johnston	£ 1,543	£ 1,555	£ 1,525	—	£ 3,080
Zomba ..	3,001	2,170	4,075	2,086	8,331
Blantyre ..	4,113	2,067	5,355	1,500	8,922
Lower River	2,432	1,665	2,193	—	3,858
Cholo ..	8,324	1,234	2,678	—	3,912
Mlanje ..	5,207	2,133	2,738	—	4,871
Total ..	24,620	10,824	18,564	3,586	32,974

The Native Tax has hitherto varied from 7s. to 9s. in different areas, but from 1948 there has been a general rate of 10s. with a rebate of 2s. to the Native Treasury. No Local Rate has hitherto been imposed, but a Rate of 1s. per taxpayer is being levied in 1949.

EXPENDITURE

District	Personal Emoluments	Other Charges	Extraordinary Expenditure	Total
Fort Johnston ..	£ 2,360	£ 964	£ 558	£ 3,882
Zomba	3,844	1,106	283	5,365
Blantyre	5,023	1,994	755	7,772
Lower River ..	2,881	852	510	4,243
Cholo	2,651	742	756	4,149
Mlanje	3,305	1,507	273	5,085
Total	20,064	7,165	3,135	30,496

THE PROVISION OF LOCAL SERVICES

The item of Personal Emoluments accounts for over 56 per cent. of the total expenditure, though the scale of salaries paid is low. The principal item of expenditure is on the construction or maintenance of Native Authority

buildings, including Court rooms, and the up-keep of village roads. Markets are maintained in a majority of the Districts. There is practically no expenditure on education, and the contribution on the medical side is limited to the maintenance in some Districts of "sanitary capitaos," and in one to the up-keep of five village clinics.

Perhaps the value of the services rendered by the Native Authorities can best be judged by their activity in regard to Agricultural operations or measures taken for soil conservation, since most of the Districts of this Province have very serious problems of soil erosion. Two Districts maintain a few demonstration plots, and contribute a number of "agricultural capitaos" to the work of the Government Agricultural Department. Three of the Native Authorities have passed soil conservation Rules, at the instance of officers of the Agricultural Department, but it is noticeable that their attitude in regard to the enforcement of the Rules is described in some cases as definite opposition, in others as "lip service" only. In only a small number of cases are individual Chiefs said to have shown interest in such measures as contour ploughing, strip planting or the like, or to have been instrumental in initiating prosecutions for breach of the Rules. The apathy shown in this respect helps to explain the extent of the powers taken by the Government under the recent Natural Resources Ordinance No. 9 of 1946.

THE USE OF RULE-MAKING POWERS

The Native Authorities have made only a limited use of their Rule-making powers, and the list has a common form, resembling that noticed in dealing with the Central Province. Reference has already been made to the Soil Conservation Rules passed at the instance of the officers of the Agricultural Department, and a Rule for the taxing of dogs was also passed at their instance. Only two of the Rules deal with matters arising in connection with native law and custom. The first is a Rule passed in the former Chiradzulu District, now part of Blantyre, which regulates the right of an occupant of Native Trust Land to sell blue gum trees planted by him. The second is a Rule passed in Cholo District for the regulation of dancing in the European manner.

THE ORGANIZATION OF THE NATIVE COURTS

The formation of the system of Courts is shown in the following statement:—

District	Native Courts		
Fort Johnston	The Fort Johnston Council of Chiefs is an Appeal Court, without original powers	The 7 Native Authorities and one Subordinate Native Authority have A Courts	—
Zomba	The Council of Zomba Chiefs is a Court of Appeal without original powers	The 8 Native Authorities have A Courts	The 6 Subordinate Native Authorities have B Courts with Appeal to the A Courts of their Chiefs
Blantyre	The Blantyre Council of Chiefs is a Court of Appeal without original powers	The 19 Native Authorities and the 3 sub-chiefs have A Courts	—

District	Native Courts		
Lower River	(a) <i>Port Herald Section.</i> The Chiefs of this section combine to constitute an Appeal Court. (b) <i>Chikwawa Section</i> The Chiefs combine to form an Appeal Court	The 7 Native Authorities have A Courts, with appeal to the Council of Chiefs The 7 Native Authorities have B Courts with appeal to the Council of Chiefs	3 sub-chiefs have B Courts with appeal to the A Courts
Cholo	The Council of Cholo Chiefs has a Court with A powers which is also the Court of Appeal	The 6 Native Authorities have A Courts	4 sub-chiefs have B Courts with appeal to the A Courts of their Chiefs
Mlanje	The Mlanje Chiefs constitute a Court of Appeal, without original powers	The 6 Native Authorities have A Courts	One sub-chief has a B Court with appeal to the A Court of his Chief.

As has been shown, in all of the Districts of this Province the Chiefs now combine to constitute a Native Appeal Court, which in one case (Cholo) is also an original Court with A powers. The warrants prescribe that in these Courts there must be a quorum of three Chiefs, and when cases are being heard in appeal the Chief in whose Court the case has originated must not sit on the bench.

The warrants do not prescribe the composition of the A and B Courts, but the presiding Chief is normally assisted by three or four Assessors, who are either paid Councillors or headmen; they are selected by him, and receive sitting fees from the Native Treasury funds. In Mlanje District the benches are composed of four to six Assessors (aphungu a bwalo), who include a small number of persons who are not Councillors or headmen, such as teachers or traders, and this is the case also in Blantyre District. In some cases, as for instance in Cholo and Lower River Districts, the District Commissioner is consulted as to the selection of persons to sit on the bench.

THE STATISTICS OF COURT CASES

The use made of the Native Courts in 1947 is shown in the following Statement:—

District	Civil Cases	Criminal Cases	Total	Appeals
Fort Johnston	1,311	1,699	3,010	There were 3 Appeals to Native Courts, 179 Appeals to the Native Appeal Courts, 15 to the District Commissioner, none to the Provincial Commissioner or to the High Court.
Zomba ..	1,605	1,726	3,431	
Blantyre ..	2,647	1,534	4,181	
Lower River ..	242	3,022	3,264	
Cholo ..	1,276	1,328	2,604	
Mlanje ..	2,151	1,011	3,162	
Total ..	9,232	10,320	19,652	

No figures are available of the use of the powers of revision by Administrative Officers.

Varying opinions have been expressed as to the character of the justice administered by these Courts, especially in regard to civil issues. It is very doubtful if, apart from other considerations, they are as now constituted competent to deal with the commercial or business transactions which have now become common in this part of the Protectorate. Their procedure is moreover vitiated by the delays due to constant adjournments and by the fact that they have no adequate machinery for giving effect to their decisions. It is inevitable therefore that there should be a demand among the more progressive classes, supported by some of the Europeans employing labour in this area, for a radical modification of the present system.

There is the additional difficulty in this area that Court records are in some areas kept in the Yao language, with which Administrative Officers are seldom well acquainted—a fact which militates against an efficient supervision of the work of the Courts. One gains in short the impression that the working of the Native Courts is a noticeably weak feature in the system of local rule now in force in the Province.

SECTION V

THE NATIVE DEVELOPMENT AND WELFARE FUND

In the previous Sections reference has more than once been made to the narrow range of finance available for expenditure by the Native Treasuries, particularly in the Northern Province. The chief source of revenue has hitherto been the rebate on the Native Tax, for the Native Authorities had not up to the end of 1948 availed themselves of the powers conferred by the Native Authority Ordinance of 1933 to levy a Local Rate. Their resources were increased in 1948 by the steps taken to raise the Native Tax to a uniform rate of 10s. throughout the Protectorate, with a rebate of 2s. per poll, but much of this increase will be absorbed by the improvements to be made in the emoluments of the Native Authorities and their establishments. It may indeed be assumed that it was the prospect of achieving this increase that secured the assent of the Provincial Councils to this measure.¹ Their resources will be further increased in 1949 if the Native Authorities implement the proposal to levy a Local Rate of 1s. per poll.

There is at the same time another source from which they can look for some assistance. In 1944 the Protectorate Government instituted the Native Development and Welfare Fund (Ordinance 14 of 1944). This measure incorporated two existing small funds, the Native Authorities Central Fund, with an annual income of about £4,000, derived from 75 per cent. of the proceeds of Rights of Occupancy granted in respect of Native Trust Land,² and the Native Welfare Fund, with an average income of about £2,000, derived from the fees paid in respect of natives recruited for work outside the Protectorate. The new Fund has been credited with considerable sums from the surplus balances of the Native Tobacco Board and from profits from the sale of the cotton crop in 1943 and 1944, the amount standing to its credit in the estimates for 1948 being £219,904. The Fund forms a subsidiary part of the Protectorate's Post War Development scheme, but is available for assistance to special projects falling within the scope of Native Treasury expenditure.

The Native Development and Welfare Fund is administered by a Standing Committee, which is mainly official in composition, but has two unofficial members of whom one is an African. The Fund has been responsible, among other schemes, for financing the Livulezi Valley Scheme to which reference has been made in describing the conditions in the Ncheu District.³ It has assisted also in the provision of drying barns for native tobacco.

In 1946 a scheme was initiated in the Southern Province for the establishment of a Central Native Treasury of which the separate Native Authority Treasuries were to form part. This was not to affect the ordinary working of those Treasuries, but it was intended that the Central Treasury should hold and where necessary invest their surplus balances. It is understood, however, that the steps taken to establish the Central Treasury have now been suspended, and it is presumed that no measures will be taken to proceed with the proposal, which was under consideration in 1947, for the establishment of a Central Treasury for the Central Province.⁴

¹ See page 65.

² See page 62.

³ Page 39.

⁴ Annual Report of Provincial Commissioners, 1947, page 20.

SECTION VI

URBAN ADMINISTRATION

There are in Nyasaland no urban populations of any noticeable size. In the case of three towns the Census Report gives figures which include the inhabitants of the compounds and villages immediately adjacent to them, these being Zomba, 4,111; Blantyre, 3,594; and Limbe, 6,179.

These three towns, with Lilongwe and Fort Johnston (which have smaller populations), have been constituted as Townships under the Townships Ordinance 3 of 1931.¹ The Ordinance provides for the election of a Township Council, but leaves it to the discretion of the Governor to nominate members instead, save in the case of Zomba, where a nominated Council is obligatory. At present the Lilongwe Council has nine nominated members, three being European officials, three European non-officials and three Asian non-officials. It elects its own Chairman. Fort Johnston has four nominated Councillors, with the District Commissioner as Chairman. Zomba has ten nominated members, six being officials (one of whom is a representative of the African Civil Service Association) and four non-officials, two of whom are European and two Asian. Blantyre has twelve elected members and Limbe ten, apart from a small number of nominated members. Three of the elected members in the former case and two in the latter are Asians, elected on a separate electoral roll. In both these Townships the Council elects its own Mayor. As shown above an African was nominated as member of the Zomba Township Council in 1949, but in none of the other Townships is there any specific provision for the representation of Africans, nor is there any African Advisory Committee attached to the Councils similar to those which are attached to the municipal bodies in a number of other territories.

The Town Councils levy a Town Rate, which varies from two pence to three pence in the pound on land and buildings, but Fort Johnston has also a rate of four pence in the pound on unoccupied land. The activities of the Councils are on a limited scale, owing to restrictions of finance. In 1946 Blantyre had a revenue (apart from receipts from its electricity Department) of £6,015, Limbe £9,739, Zomba estimated receipts of £2,445, and Fort Johnston £195. The Central Town Planning Committees have considered proposals for providing additional housing accommodation in the Townships, but no definite scheme has yet been drawn up.

No special arrangements have been made for urban Courts to deal with the cases of the Africans resident in the Townships, such as are to be found, for example, in Kenya or Northern Rhodesia. Matrimonial and similar issues arising between Africans in the Townships are tried in neighbouring Native Authority Courts, an arrangement which must have serious disadvantages for those Africans who do not belong to local tribes.

The question of providing for the social welfare of Africans in urban areas is only just beginning to receive attention. A Native Recreation Hall has been built in Zomba, with the aid of a grant from the Native Development and Welfare Fund.

¹ This Ordinance as revised by amendments terminating with No. 17 of 1946 forms Cap. 117 of Laws of Nyasaland (1946).

SECTION VII

THE LANDS IN THE PROTECTORATE

THE ALIENATED LANDS

SOME account has been given in Section I of the measures taken in 1936 to stabilize the land policy of Nyasaland by the enactment of the Native Trust Land Order in Council of that year. As shown there, the effect of the Order in Council was to divide all lands into three categories (a) the Crown Lands, (b) the Reserved Lands, and (c) the Native Trust Lands.

The amount of Crown land is insignificant. Of the total lands in the Protectorate 5.1 per cent. (which are classed in the Reserved lands) have been alienated; other Reserved lands consisting of forest reserves, lands in townships other than Crown lands, and the like, occupy 7.65 per cent of the lands of the Protectorate; the Native Trust Lands are now 87.5 per cent. of the total area of the Protectorate.

It is not necessary to refer again here to the complicated issues arising in connection with the rights of Africans residing on the private estates included in the Reserved Lands.¹ They have been fully examined in the Report of the Land Commission of 1946, the recommendations of which are still under consideration.

THE NATIVE TRUST LANDS

The Native Trust Lands are vested in the Secretary of State for the Colonies. Rights of Occupancy may be granted for a term of 99 years, at a rent revisable at intervals of not more than 33 years, but before any grant is made the Native Authority of the area must be consulted and if the grant is made the proceeds are to be paid into the local Native Treasury. In practice the grant of Rights of Occupancy is now confined mainly to plots required for shops, residences or similar purposes. Up to 1946 Rights of Occupancy had been granted on an area of just over 50 square miles. For the rest, natives are entitled to occupy the Native Trust Lands, free of rent, on conditions determined by native law and custom.

For the present purpose, the problems which now occur in connection with the Native Trust Lands are mainly those arising from the change in custom due to economic and similar developments, and in particular the changes created by the individualization of the system of landholding. In the Northern Province, the general pressure of population is not such as to have given rise to problems arising from this cause, with the exception of some areas on the Lake shore, and in the congested island of Likoma. The Atonga, however, as has already been mentioned, have conceptions of land tenure which approach closely to those of individual ownership,² and are unwilling to admit the principle of collective rights. But even here there is little evidence of the growth of a practice of transfer of rights whether by "pledging" of land or otherwise, and at the most, the procedure recognized by the Native Courts is the temporary "borrowing" of occupied holdings. It is, again, noteworthy that the Native

¹ In addition to the references quoted at page 18 of Section I, see in this connection pages 115 to 119 of *Land Law and Custom in the Colonies*, C. K. Meek, 1946. Some of the earlier history is given in R. L. Buell, *The Native Problem in Africa*, Vol. I, page 245 following.

² See page 32.

Authorities, as such, do not appear to have concerned themselves in the allocation of unoccupied lands or the regulation of land rights, whether by the making of Orders under Section 8 of the Ordinance or Rules under Section 18. Questions regarding the allocation of waste or unoccupied lands remain in the hands of the village headmen or heads of family groups.

In the Central Province also there do not appear to be any problems of land tenure due to the growth of individual rights over holdings. There is said to be in some areas a strong tradition of the permanence of occupation, but no instances seem to be known of the transfer of rights or of renting to tenants. It has further to be remarked that though a Chief is regarded as the "root" (tsinde) of the land,¹ or in more legal terms, as its ultimate proprietor on behalf of his community, Native Authorities as such do not take a direct part in the allocation of unoccupied lands nor do they exercise any direct control over them.

They are consulted, as Native Authorities, regarding proposals made for the grant of Rights of Occupancy on Native Trust Lands,² but the actual allocation of unoccupied lands seems to rest primarily in the hands of village headmen and if sanction for allocation to a stranger is needed, reference is made to the Chief not as Native Authority, but in his capacity as guardian of the interests of the community. There is also noticeable here a tendency for boundary and other land disputes between individuals to be referred for the decision of a Chief, not as presiding over the Native Court, but in virtue of his traditional position in regard to the land.

In the Southern Province it is inevitable that the chief interest of a large part of the native population should centre on matters arising out of the position occupied by residents on the European estates. If the proposals of the Land Commission of 1946 are implemented, with the result that considerable areas of what are now private estates will be made available to natives who will be removed from them, difficult questions will arise regarding the method of allocation to be adopted and the rights to be given to the new occupants. This emphasizes the need for the appointment of a Land Officer whose function it will be to deal with questions relating to native lands, including the study of the rights over them as determined by native law and custom. Far too little is now known on this subject.

So far as can be ascertained in the absence of such a special study, the large increase of population on the Native Trust Lands has not led to the adoption of practices such as the transfer of rights or the "pledging" of land or letting it out on rental. The principle of collective rights is well recognized, in the sense that holdings abandoned for any reason by the occupier are treated as available for re-allotment. It is said that the educated section of Africans desires the power to bequeath their rights of occupation by will, but that this practice has not so far been recognized by the Native Courts.

The chief problems connected with the application of the customary law (apart from the normal disputes about succession or the boundaries of "gardens") arise in regard to the allocation of unoccupied lands to immigrant natives from Portuguese East Africa or elsewhere. It is not easy to determine, from the little evidence available, what are the respective parts taken in this process by the Chiefs, village headmen, and the Eni Dziko, the traditional land authorities to whom a reference was made when dealing with Lilongwe

¹ Notes on Land Tenure amongst the Achewa Tribes, M. C. Hook, 1945.

² See on this point Land Commission Report, 1946, paragraph 11.

District.¹ It is asserted that the Eni Dziko are descendants of the individuals who were given the right to allot waste land by the original invaders or by earlier Chiefs, and that where immigrants now seek land they apply to the village headman who allots it to them out of areas made available to him by the Mwini Dziko. The headman reports the matter to the Mwini Dziko and he in turn to the Chief. But it is not possible to say how far this is now the actual practice, nor indeed how far the Mwini Dziko can now be identified as such. It is at all events clear that when Chiefs or sub-chiefs take any part in the process of allocation, they do so not in virtue of their position as Native Authorities but as the customary guardians of the collective right in the land.

¹ See page 41.

SECTION VIII

THE PROVINCIAL AND PROTECTORATE COUNCILS

THE PROVINCIAL COUNCILS

THE Protectorate Government took a step which was of considerable importance from more than one point of view when it instituted a system of Provincial Councils in 1944 and 1945, followed by the creation of the African Protectorate Council in 1946. These institutions had a double objective. They were designed, in the first place, to bring the Native Authorities, whose organization is almost exclusively on a traditional basis, into contact with members of other classes and more particularly the class of educated commoners, and to provide an opportunity for the latter to express their views on matters falling within the field of native administration. In the second place they were intended to provide a means of ascertaining the views of the African community generally on matters of wider interest to the Protectorate and in particular on projects of law placed before the Legislative Council.

The Provincial Councils of the Central and Southern Provinces each have 25 members and that of the Northern Province 20. In the two former there are 20 Chiefs and 5 commoners; in the Northern Province Council the corresponding numbers are 14 and 6. The members who are Chiefs are selected ad hoc for each meeting by the various District Councils of Chiefs. The commoners were originally appointed on the nomination of the Chiefs, for two years, but vacancies arising by retirement of members appointed on this basis are now filled on the recommendations made to the Governor by the Provincial Councils concerned. In the Northern Provincial Council one of the nominated "commoners" has been the President of the small Likoma and Chizumulu Council, and most of the remainder have hitherto been Ministers of the Presbyterian Church of Central Africa. In the Councils of the Central and Southern Provinces the nominated members include a former African Warrant Officer of the King's African Rifles, some ex-Government clerks and the Secretary General and another official of the African Congress.¹

The Councils are at present only consultative. They meet twice a year with the Provincial Commissioner as President, and are attended by Departmental officers who discuss matters concerning their departments. A survey of their proceedings (which are issued in print) shows that they have now a regular procedure both of interrogation and Resolution, and that the subjects discussed range over a wide field of general interest, including such matters as the conditions of recruited labour in the Union and Southern Rhodesia, the attitude of Government on the Land Commission Report, or proposed amendments of the Native Court Ordinance, as well as matters of more local interest. It is clear that the Councils have already proved of value in considering the form of Rules made by Native Authorities (as for instance the Rules for Registration of Non-Christian Marriages) and it is largely on the strength of

¹ See page 73.

their support that the Government has raised the Native Tax throughout the Protectorate to a uniform figure of 10s.

THE AFRICAN PROTECTORATE COUNCIL

The African Protectorate Council has 20 members, eight from the Southern, seven from the Central and five from the Northern Province. The members are nominated by the Governor as the result of a secret ballot held in each Provincial Council, and in this case there is no fixed proportion of chiefs to "commoners." This procedure resulted in 1947 in a membership of 13 Chiefs and seven "commoners." The Council meets twice yearly under the presidency of the Chief Secretary.

There seems to be in this case a less regular procedure of interrogation than in the Provincial Councils, but the range of subjects discussed is much the same as in them. Indeed the fact that the members of the Protectorate Council are, in effect, only a selection from the members of the Provincial Councils tends to a repetition of the arguments already used by them on the same subjects in the Councils, and it is difficult to avoid the conclusion that the Provisional Councils are for all practical purposes more useful and carry greater weight than the African Protectorate Council. They have undoubtedly had a function in quickening the consciousness of the Native Authorities and in affording a stimulus to the less active of them. In the future, the most important function of the African Protectorate Council may prove to be a source of selection for African members of the Legislative Council. In 1949 the two newly appointed members of the Nyasaland Legislative Council were selected from a panel of names which had been submitted by the Protectorate Council.

SECTION IX

CONCLUDING NOTE

EFFECT OF THE INTRODUCTION OF THE NATIVE AUTHORITY SYSTEM

IN considering the course taken by the system of native administration in Nyasaland, one is continually faced with the need for finding an answer to one question in particular, namely, the degree to which the use of traditional indigenous institutions has justified itself in practice. It has been necessary to face a similar question in Tanganyika, though in somewhat different circumstances. In Tanganyika the introduction of the Native Authority system followed very shortly on the commencement of British rule, and it represented a deliberate choice of policy, largely influenced by the success held to have attended the use of a similar system in Northern Nigeria.¹ In Nyasaland, the utilization of traditional Native Authorities was preceded by a period lasting for some years, during which the system of local administration was in principle based on the use of "appointed" and not traditional agencies.²

Though a considerable number of the Principal Headmen so appointed were in fact tribal heads, yet, as already explained, the Ordinance of 1933 did actually embody a definite change in principle, and the Protectorate Government has consistently sought to give effect to this principle in subsequent practice. The Chiefs are recognized as sole Native Authorities. The majority are tribal heads, and in the absence of a recognized tribal head, the persons appointed as Native Authorities have been officially given a "chiefly" status. There is an interesting illustration of this in the process which has endowed with an hereditary status the descendants of the Makololo who followed Livingstone from Northern Rhodesia about 1863.³

There can be no doubt that the adoption of this principle of rule, aided by the action taken by the Protectorate Government in regard to land legislation, contributed materially to the improvement in the relations between the Administration and the African community at one period in the history of the Protectorate. But it would not be possible to give any comprehensive answer, covering the whole of the Protectorate, to the question regarding the relative measure of success attending the working of the system in present circumstances. The Native Authorities may for the present purpose be considered in two classes, of which the first has its most numerous representatives among the Chiefs in the Southern Province. In that Province there is a considerable proportion of Native Authority units of which the organization is noticeably weak and the Chiefs are characterized as possessing little natural authority or efficiency. There are obvious reasons for this, of which the principal are the disintegration of the tribal structure, the large scale employment on private estates, and the effect of immigration from Portuguese East Africa.⁴

¹ See Chapter III, page 220.

² See pages 26 to 28.

³ See page 51.

⁴ See page 52 to page 54.

THE NATIVE AUTHORITIES IN THE SOUTHERN PROVINCE

In these conditions the efficiency of the Native Authority system must depend to an exceptional degree on the personal character of the Chiefs recognized as Native Authorities. The Administration has not, however, kept in its own hands any effective power of influencing their selection, and the customary procedure by which this selection is made is not directed to ensuring the choice of the member of a "chiefly" family who has the best qualifications for the office. Further, the emoluments attached to the chiefdoms are in many cases insufficient to attract persons with the experience or the education which might be useful to them as Chiefs.

One is accordingly left with the impression that in these areas the District Officer, in default of suitable subordinate agencies, has to be responsible for an undue share of the work of administration, a position which might have been inevitable at an earlier period, but is less defensible now that administrative activities have a far more extended range and standards are more exacting. But the matter is not one merely of administrative efficiency. There is growing evidence of the existence in these areas of a public which feels the lack of a regular means of contact with the Native Authorities and has little respect for the personality of the existing holders of these offices.

A high administrative authority in the Protectorate once observed that it is not the duty of a Chief to concern himself with the details of Native Authority work, but rather to act as an intermediary between the Administration and the people in his jurisdiction. But it is difficult for him to comply with this requirement unless some machinery is provided, other than that of the informal meetings of tribesmen or others, for establishing contact between him and the people. Though it is doubtless true that some of the criticisms levied against the Southern Province Chiefs by the more progressive elements among Africans have been coloured by the political views current in the African Congress,¹ there is nevertheless justification for the complaint that the present Native Authority organization does not provide an adequate means for the expression of public opinion in matters of local administration. This has been recognized by some Administrative Officers, and it is their initiative that has been responsible for the experiment made in the formation of Local Advisory Councils in the Blantyre and Mlanje Districts, and for the proposal for a similar organization in the Cholo District.²

Looking at the circumstances of the majority of the Districts in the Southern Province, a revision of the present system seems to be required in several directions. The first is the establishment of a practice by which the Administration will exercise a definite influence over the selection of Chiefs. Experience has shown that it is no longer adequate to confer the position of Native Authority on the person selected as Chief by the customary process. The Administration has hitherto shown reluctance to intervene in this manner;³ but the circle of candidates whom custom defines as eligible is often large, and it is not suggested here that the Administration should normally seek to go outside that circle.

The second requirement is even more important. As was remarked in dealing with a somewhat similar situation in parts of Tanganyika,⁴ it is essential

¹ See page 73.

² Pages 53 to 55.

³ Chief Secretary's Circular on Native Administration, 12 June, 1944.

⁴ Chapter III, page 368.

to secure that the Chief should have a Council which will form an effective part of the Native Authority organization. In many of these areas it could hardly be said that the Chief has a Council in any proper sense of the term, and such Advisers as he has are indicated by local custom or selected at his own discretion. The composition of a Council should be determined by the Administration and the personnel should be appointed with its approval, thus enabling it to use its influence to secure the selection of a proportion of members who are qualified by experience and education to take a useful part in the work of the Native Authority. The jurisdiction of the latter would then be vested in a Chief in Council, and the members of these Councils would ultimately form the basis of a District Council.

It is a debatable question whether the Native Authority Councils should at the initial stage include representatives selected by any form of popular election. The matter is one for local consideration in the light of the circumstances in different Districts; but it seems reasonable to suggest that this development should, in any case, be contemplated only when the Councils have been firmly established as working bodies on the lines above suggested.

It also appears necessary to contemplate a revision of the organization of the system of Native Courts in the areas now being considered. In many parts of East and Central Africa popular confidence in the Native Courts may be said to depend largely on the extent to which their benches are composed of persons who are locally recognized as repositories of the customary law or experienced as judges in private disputes. There are, however, in the parts of the Southern Province now under consideration many areas where these factors are of decreasing importance, owing to the fusion of peoples of different tribes and the existence of large numbers of people who either live in or work on the European estates.

The Native Courts as now constituted have come under strong criticism in some quarters, and even where their impartiality is not attacked, there are complaints of delays in hearing cases, of lack of competence to deal with commercial or similar issues, and the absence of machinery for the execution of Court judgments. Some of the defects in their procedure will no doubt receive attention following on the appointment of the Native Courts Adviser for which provision was made in the Ordinance of 1947,¹ but apart from this, there seems to be a strong argument for remodelling their composition. It is advisable that this should now be laid down by warrant, and the appointment of their individual members approved in each case by the Administration, which should use its influence to secure the selection of a proportion of suitable persons outside the circle of those indicated by local custom. There will also be found cases in which persons other than Chiefs should be appointed as Presidents of the Courts, with a suitable remuneration as such. It might be of value if the Protectorate Government were to study the procedure adopted in this respect in certain areas of Kenya.²

THE NATIVE AUTHORITIES IN THE NORTHERN AND CENTRAL PROVINCES

The preceding paragraphs apply in particular to the areas, largely in the Southern Province, to which special reference has been made. As regards the operation of the existing system in other parts of the Protectorate the study

¹ Page 29.

² See Chapter II, page 102.

of the position which has been made in this survey suggests two observations which have a general bearing on the future of the Native Authority organization. In the first place, the tribe, considered as a separate unit, is a much less distinctive factor here than in many other parts of East or Central Africa. That is no doubt due largely to the historical developments referred to in Section I. The incursions of the Angoni and Yao, the upheavals caused by the slave trade, and in later times the extent of emigration have all contributed to this result. The effect is seen in the fact that in many cases the jurisdiction of the Native Authorities is not limited to their own tribal areas, but extends over large groups belonging to other tribes. There is observable almost everywhere a growing fusion of custom and social habit. There are of course some exceptions, as for instance the Atonga of the Northern Province,¹ and there are some parts in which the Yao retain their individuality as a tribe, but the generalization holds good for the Protectorate as a whole.

In the second place, economic developments, especially in the tobacco producing areas of the Central Province, have of recent years greatly increased the resources of individual cultivators and traders, with the result that there are now a growing number of persons who show an interest in the conduct of local affairs, and are competent to take a part in their management. There will be found in Section I some observations on the general standard of education in the Protectorate,² but whatever view may be held of the results actually achieved by the extensive provision of schools, there must be some solid ground for the reputation for intelligence and initiative enjoyed in other parts of Africa by emigrants from Nyasaland. It is no doubt true that it is the more active minded part of the population which emigrates, but the qualities indicated must be shared in some measure by the people at large.

It need hardly be said, that in the areas now being considered there is much diversity in the extent of the influence exercised by different Native Authorities and in the competence shown by them in the discharge of their functions. There are in the Karonga, Mzimba, Dowa, Lilongwe and Ncheu Districts in particular, certain Native Authorities whose character and competence are generally recognized,³ but there are at the other end of the scale some Chiefs of a calibre so far inferior as to cause District Officers to regret that it is no longer possible to replace them with appointed "Principal Headmen." Apart however from the qualities displayed by individual Chiefs, one may well ask whether there is not some inherent weakness in a system which depends so largely on the individuality of the person chosen by custom to fill the office of Chief. There seems accordingly to be in these areas also a strong argument for strengthening the Native Authority organization by the creation in each unit of a regularly constituted Council, in the selection of which the Administration would have a voice.

While this might provide, particularly in some cases, a more satisfactory organization of Native Authority, and might also provide an opening for the representation of local opinion by bringing "outsiders" on the Council, it would still fail to provide for the closer association between the Chief and the people within his jurisdiction. There are many Administrative Officers who hold the view that recent developments, and notably the prominence given in the Provincial Councils to the more intelligent of the Chiefs, have tended to

¹ Page 32.

² Page 22.

³ Pages 33, 34, 40, 41, 42.

divert their attention from local affairs, and to reduce their inclination to take advantage of the opportunities provided by customary usage for contact between the Chiefs and the people. That is not merely undesirable in itself, but it may in the conditions now developing, most notably in the Central Province, produce a state of tension within the Native Authority organization which will seriously prejudice its future.

Two instances have been quoted from the Mzimba and Ncheu Districts¹ in which some regular provision already exists for consultation with the people, but circumstances seem to require that the Administration should now give further consideration to the suggestions which have from time to time been made for the systematic provision of Local Advisory Councils throughout these Provinces. These have been described generally as "Group Councils," but their exact form and composition must clearly vary in different areas, and be determined by local circumstances. The unit may in some cases be determined by the existence of a sub-chiefdom; in others it may have to represent a grouping determined by clan or other affinities.

THE BASIS FOR THE FORMATION OF DISTRICT COUNCILS

Attention has been drawn at different points in this Chapter to the progress made in joining the Native Authorities into federations or unions. Progress has been more marked in this respect in the Central than in the Northern Province, where up to 1948 no such unions had been established. In the Central Province the Dowa District Chiefs now form two separate Councils, but Councils have been formed on a District basis in Kota Kota, Lilongwe and Dedza Districts; Ncheu District has a single Native Authority. With the exception of the Lilongwe Council,² however, these federations cannot be described as effective working bodies, either for the control of the proceedings of the Native Treasuries or for other administrative purposes.

It is in the control of the revenues of the Native Treasuries that most of these unions show their weakest feature. This must be attributed in part at all events to the poverty of their resources, which allow little scope for the development of local services. In the estimates of 1947 the Native Treasuries of the three Districts in the Northern Province had a total revenue of only £7,399, and those of the five Districts of the Central Province a revenue of only £23,462 and the ratio of expenditure on Personal Emoluments and other administrative charges (44 per cent. in the Northern Province and 61 in the Central Province) left only a small amount available for other expenditure. As has been shown in Section V, the Native Treasuries will now have the benefit of assistance from the Native Development and Welfare Fund, but this will be seen more in the aid given to schemes of development in which the Protectorate Government is interested, than in augmenting the resources available for expenditure on the objects with which the Native Authorities are primarily concerned. A beginning has been made in the imposition of a Local Rate, with effect from 1949,³ but the resources of the Native Authorities will have to be very considerably increased before they are in a position to make an effective contribution to this aspect of local government.

Apart however from any question of the competence of the existing

¹ Pages 34 and 44.

² Page 42.

³ Page 22.

Councils of Chiefs as organs of local government, they cannot be said to constitute in their present form a satisfactory basis for the establishment of District Councils representative of the various interests now coming into prominence in many parts of these Provinces. If District Councils are to be established, it is advisable that this measure should await the formation of the reformed system of Native Authority Councils and Local Advisory Councils suggested in previous paragraphs. The formation of District Councils has in some quarters been viewed as essential to the proper formation of the Provincial Councils, but this is only a part, and not the most essential part of their function. Their real function is to provide an efficient working body, primarily concerned with issues which arise in the District itself.

THE PROVINCIAL COUNCILS

The Provincial Councils inaugurated in 1944 and 1945¹ have already proved of value as a means of educating the Chiefs, who comprise the majority of their members, in matters of general interest, and as a forum for discussion of policy in the field of native administration. But it will only be possible to determine the real position of these Councils if and when an effective system of District Councils is in existence. It may well be found then that the actual centre of interest will be in the District Councils, and that the appropriate forum for discussion of matters of wider interest will be found in the African Protectorate Council. At the moment this body seems in large measure to duplicate the work of the Provincial Councils.

THE POLITICAL INSTITUTIONS OF THE PROTECTORATE

The Legislative Council of the Protectorate now consists, in addition to the Governor, of twenty-one members, of whom three are ex-officio, nine nominated officials, and nine nominated unofficials. There is therefore at present a majority of official members. The nine unofficial members include one European nominated to represent African interests, one Indian, chosen by the Governor from a panel submitted by the Indian Chamber of Commerce, and two Africans, chosen by the Governor from a panel of five Africans recommended by the African Protectorate Council from among its own members. The two African members are at present Chiefs.

There has been considerable discussion regarding proposals made for introducing a system of election in respect of the representation of Europeans. Differences have however arisen on the subject between the two major bodies which represent European interests, the Chamber of Commerce and the Convention of Associations, and further proposals regarding the future composition of the Legislative Council are consequently in abeyance. It may be noted here that it was stated in 1947 that the European community consisted of 1,500 adults, but that this figure included a number of aliens who would not be entitled to a vote. The electorate would therefore be very limited in number.

The Executive Council of the Protectorate consists at present of the Governor, as President, and seven members, three of whom are ex-officio, two nominated official and two nominated unofficial members. There is no

¹ Section VIII, page 65.

African on the Council, but one of the two nominated officials is normally the Secretary for African Affairs. This post is of comparatively recent creation. Up to 1947 the senior Provincial Commissioner was designated as the Adviser to Government on Native Affairs, an arrangement which was dictated by the narrow scale of the Administrative Staff then available, but had many inconveniences. It is understood that the creation of a Native Affairs Branch of the Government, under the Secretary for Native Affairs, will now provide the basis of an organization which will include the Native Courts Adviser and also an officer dealing with issues arising in connection with the Native Trust Lands.

Africans have been included in a number of the consultative bodies established at the headquarters of the Protectorate Government. There are three Africans on the Advisory Committee on African Education, four on the Native Tobacco Board, two on the Central Native Development Committee, and one each on the Central Labour Advisory Board and the Maize Control Board. As shown in Section VI there are no African representatives on the Town Councils or Township Boards.

AFRICAN POLITICAL ASSOCIATIONS

As has been remarked in dealing with some other territories in East and Central Africa, the extent of political interest among Africans must at present be judged from the activities of local African Associations rather than from the share taken by Africans in the proceedings of the Legislative Council. There are a number of such Associations devoted to the interests of particular classes, such as the Nyasaland Teachers Association, the Angoni Highlands Association or the Zomba Northern Province Association, but their members show a concern in political developments only in so far as they touch their special interests.

The Watch Tower movement, which has a considerable following in Nyasaland as well as in Northern Rhodesia, can only be considered as a body with political interests in so far as it represents a refusal to accept all constituted authority. It has, however, been used in the past for purposes subversive of law and order, as in the case of the Chilembwe rising of 1915-16.¹ During the recent War large numbers of its followers were imprisoned, following their refusal to pay the 1s. surcharge on the Poll Tax on the ground that it had been imposed for War purposes. This surcharge, it may be added, has now been embodied in the general increase of the Native Poll Tax to 10s. to which reference has been made in Section I.² Some of the Watch Tower followers, particularly in the Ncheu District, still continue to demonstrate their tenets by refusing to pay any form of tax.

The only Association which can be regarded as mainly political in its interests is the Nyasaland African Congress, which was founded in 1943. It occupies a somewhat unusual position, in so far that it was accorded recognition by the Government in 1946 "as representing various African Associations in Nyasaland."³ Its membership is drawn mainly from the better educated members of the African community, including Government servants, and though its chief objective is claimed to be educational, the Agenda of its Annual

¹ See Commission to enquire into the Native Rising within Nyasaland Protectorate, 1916.

² Page 21.

³ Address by the Governor to Fourth Annual Conference of the African Congress.

Conferences show that it has dealt with a large variety of other subjects, including the Resolution passed by the African Protectorate Council in favour of raising the Poll Tax to 10s., the constitution of the Legislative Council, or the position of African Civil Servants in relation to political affairs. It has descended at times to more parochial matters, such as the time table of local trains and the establishment of a Dipping Tank.

The African Congress at one time expressed itself as opposed to the establishment of the African Protectorate and Provincial Councils, on the ground that they would represent only the interests of the Chiefs, and it has of recent years been the principal focus of the support given to claims put forward by the labour resident on private estates.¹ It has on that matter a position which brings it far wider popular support than it could secure by opinions expressed on purely political or constitutional issues. In this particular matter moreover the attitude taken by the Congress conflicts with the interests of a section of the European population, and it is likely that it will consequently become in time a body with a more pronounced racial bias. If so, it will be a matter for consideration whether Government employees can continue to be permitted to take part in its proceedings.

¹ Page 62.

CHAPTER VI

Northern Rhodesia

SECTION I

GENERAL

THE PART PLAYED IN THE PROTECTORATE BY EUROPEAN ENTERPRISE

IT became at one time almost a commonplace to characterize Northern Rhodesia as a country whose economy was dominated by its mines and whose life centred mainly on the area conventionally known as the Copperbelt. In one sense this was true. It is at all events the fact that the taxation derived from the mining companies in the Copperbelt and Broken Hill, and from the import duty, which is paid largely on goods consumed in the Copperbelt, has been chiefly responsible for the remarkable improvement in the resources available to the Government of the Protectorate. Mining development began with the production of lead and zinc from Broken Hill, where the outturn which was valued in 1920 at only £347,000 rose to nearly £3,000,000 in 1924. The revenue of the Protectorate stood in that year at £309,795. The Copper Mines began to come into effective operation in the early 'thirties, with the effect that the average revenue of the Protectorate was rapidly doubled, and it expanded progressively with the development of the mines and with changes in the system under which they paid taxation. In the estimates of 1949 the revenue (apart from contributions from the Colonial Development and Welfare Fund) stood at £9,060,000, to which Income Tax contributed £6,350,000 and the import duty £1,484,050.

In a mixed economy such as that of the Protectorate it is always difficult to distinguish the monetary value of the part played in production by different classes of the community. But some interesting calculations published in 1948 showed that out of a total estimated national income of £13,585,000, the income which could be classed as European amounted to £9,222,000, of which £6,592,000 was derived from mining and £127,000 from farming.¹ Income classed as African was estimated at £3,514,000, of which £1,655,000 was credited to subsistence farming, and £1,738,000 to economic crops and wage earning, but of this latter figure, the economic crops produced by Africans contributed only £288,000, while the wages earned in mining were put at £761,000 and those earned in transport at £138,000.

Another interesting contribution to this aspect of Northern Rhodesia economy was provided by a study made in 1945 of the earnings of the Copper Mine employees. This estimated the payments made to Europeans in 1943 at £2,846,000 and to Africans at £768,000, while the expenditure on stores

¹ Measurement of Colonial National Incomes, P. Deane, Cambridge University Press, 1948.

consumed was £4,233,000. It was concluded that, on a rough calculation, the Copper Mines were responsible for about 60 per cent. of the total income of the Protectorate.¹

ITS INFLUENCE ON LAND POLICY

From the economic standpoint, therefore, there is no doubt of the dominance of the European mining and commercial enterprises. The position reflects in a much lesser degree the effect of European settlement for farming or allied purposes, for as will subsequently be shown, the number of European farmers has been relatively small. In this respect, the Protectorate differs materially from Kenya Colony. But for the present purpose, the chief relevance of these economic developments lies in the effect which they have had on native affairs and native administration. This may perhaps be seen in the most significant form in the course taken by land policy. In the early days of the control of the British South Africa Company² the possibilities of the exploitation of copper were not foreseen, and attention was directed mainly to the prospects of gold-mining and farming.³ Except in Barotseland, where native rights were secured by treaty,⁴ all land in the Territory was held in theory to be available for alienation, until the Orders in Council of 1899 and 1900, which set up separate Administrations in North Eastern and North Western Rhodesia, made it an explicit condition that sufficient land should be from time to time assigned for native occupation.

Action in this direction was accelerated by the desire of the British South Africa Company and the North Charterland Company to obtain a clear decision as to the lands which could be alienated by them free of encumbrance by native occupation, and a beginning was made in 1907 by the delimitation of one small Reserve, the Angoni Reserve. The subsequent history of the delimitation of the Reserves is given in detail in Chapter III of the Report of the Commission on the Financial and Economic position of the Territory issued in 1938, and need not be repeated here.⁵ But the distribution of the 185,776,912 acres in the territory was then shown as follows:—(a) 11,225,498 were classed as reserved for demarcated Forests, Game Reserves, etc. (b) 8,800,395 acres had been alienated, namely, 4,173,000 held by the North Charterland Company, 1,566,525 by the British South Africa Company, and 3,060,870 held in farms, etc. (c) In Barotseland the area reserved under treaty was recorded as 37,000,000 acres. (d) The Native Reserves outside Barotseland, some 38 in number, occupied 34,532,000 acres. (e) There remained 94,219,019 acres of unallotted Crown land.⁶

¹ W. J. Buschau in *Secondary Industries of Northern Rhodesia*, Lusaka, 1945.

² The territory now comprising Northern Rhodesia was vaguely included in the Company's Charter before 1899, but in 1899 and 1900 the Barotseland—North Western Rhodesia Order in Council and the North Eastern Rhodesia Order in Council placed the administration of the Company in those areas on a definite basis. The two areas were amalgamated under the name Northern Rhodesia in 1911, and the Company's administration continued until the termination of its Charter in 1924.

³ No considerable sources of gold have so far been revealed. The production in 1946 was valued only at £43,297.

⁴ See page 88.

⁵ Colonial 145.

⁶ Rhodesia-Nyasaland Royal Commission Report, Cmd. 5949 (1939), page 37.

There was at the same time a general agreement that the position in regard to the native lands was unsatisfactory. In some cases tribes had been moved into the Reserves allocated to them ; in others, they still occupied Crown lands, on which, though they paid no rental, they had in theory no rights. Some of the Reserves, especially those which had been created at an earlier date, had proved to be altogether inadequate in area, and were much congested, while others were overgrazed, with grave results in soil exhaustion. In 1937 proposals, based on the procedure which had recently been adopted in Nyasaland, were put forward for a substantial change in the system, and these were finally embodied in the Northern Rhodesia Native Trust Land Order in Council of 14th October, 1947.

This Order did not of course affect the existing alienated lands, and left intact the Native Reserves previously delimited as such. But for the rest, its purpose was to set apart as Crown Land only such lands as were shown by an ecological survey to be suited for non-native settlement or to contain workable minerals, the remainder being constituted as Native Trust Land.¹ Native Trust Land was to be administered and controlled by the Governor for the use or common benefit, direct or indirect, of the natives of the Protectorate, and though leases could be given to non-natives, the term was to be limited to a period of 99 years. Barotseland was excluded from the provisions of the Order in Council.

Recommendations for the delimitation of the Crown Lands as thus defined were made in the Report of a Land Commission issued in 1946, which took into account also the fact that in 1938 the British South Africa Company had handed over to Government for the use of natives 947,000 acres from its "Tanganyika Estate",² and that in 1941 the Government had purchased from the North Charterland Company an area of 3,800,000 acres for a similar purpose. Until final decisions have been made on these recommendations it is not possible to give precise figures showing the alteration of the position as it existed in 1938.

It has, however, been estimated that the position may be approximately as follows. (a) Private freehold land, alienated to farms, mines, railway land, etc., 3,878,400 acres ; (b) Crown land, held by Europeans under a 999 years' lease or held by the Crown for leasing to Europeans or to natives as surveyed farms on similar lease, and including also Forest and Game Reserves, 6,752,000 acres ; (c) Native Trust land, 109,318,400 acres ; (d) Native Reserves 34,713,600 acres. The Barotseland area, which is not included in these figures, has now been stated more precisely as 29,427,200 acres. The Annual Report of 1947 expresses the result in general terms as follows :—

"African land rights will be preserved in approximately 170,810 square miles and in addition there are 54,240 square miles of Native Reserves. This will leave 17,610 square miles of alienated land and Crown land available for alienation on 999 year lease".

The change in the disposition of lands in the territory will have an important reaction in the field of native administration. Large areas of what have hitherto been technically classed as Crown lands will become in effect tribal areas. A large number of natives had, in anticipation of the sanction finally given to

¹ The Ecological Survey is contained in the Reports on the Soils, Vegetation and Agricultural Systems in North Western Rhodesia (1937) and North Eastern Rhodesia (1943) by Messrs. C. G. Trapnell and J. N. Clothier.

² See page 136.

the proposals by the Order in Council of 1947, already been moved into the new Native Trust Lands from the more congested Native Reserves ; it is on record, for instance, that by the end of 1945 a total population of some 70,000 had been successfully settled, and " their agriculture brought under a mild form of control."¹ This process of resettlement is still in progress, and its completion may have its result in affecting the composition of the Native Authorities and the extent of their jurisdiction. There will again be some change in the position of these Authorities if effect is given on any considerable scale to the proposal, alluded to above, to grant long leases of surveyed farms to natives.

THE EFFECT OF EMPLOYMENT OF AFRICAN LABOUR

The economic developments due to European enterprise have had their effect on native life in the Protectorate in another direction. It has been estimated that in 1946 the adult ablebodied males fit for employment in the Protectorate numbered 270,300, of whom 90,100 were assumed to be engaged on the production of native crops in the Protectorate and 180,000 employed in a wage earning capacity, namely, 125,000 in Northern Rhodesia, 28,000 in Southern Rhodesia, 5,700 in the Union of South Africa, and 21,500 elsewhere.²

Annexure VII of the Annual Report on African Affairs in the Protectorate for 1947 gives figures on a somewhat different basis, the total male population being estimated at 447,307 of whom 377,945 were taxable and 69,064 exempted from taxation. The taxpayers engaged at home on production of crops for sale were 115,422, and those making their livelihood at home on other forms of production or distribution were 17,605. The taxpayers at work for wages within their own Provinces were 59,383 ; those working for wages in other Provinces of the Protectorate were 63,996, and there were 27,907 in Southern Rhodesia, 10,716 in the Union of South Africa, and 11,632 in other territories.

Some of these figures are of course only estimates, but they will serve to illustrate the extent to which the male population is engaged on wage earning outside its tribal areas, with the consequent reduction in the manpower available for subsistence production. Some years ago, Administrative Officers were asked to provide figures of the number of males normally absent from their villages, and though experience shows that there is always a tendency to exaggerate estimates of this nature, the replies then given are informative. One District (the Sesheke District of Barotseland) estimated a normal absence of 60 per cent. ; five Districts put it between 50 and 60 per cent., six between 40 and 50, and four between 30 and 40.³ In the Annual Report on African Affairs for 1947 the Provincial Commissioner estimated that the numbers away at work in Senanga and Kalabo Districts of Barotseland were 25 per cent. to 30 per cent., but stated that estimates for smaller areas showed percentages of 40 and 50 per cent. absentees.

The Witwatersrand Native Labour Association has an authorised recruitment of 3,500 from Barotseland for employment in the Union of South Africa,

¹ Annual Report on Northern Rhodesia, 1946, page 9. The problems due to congestion and the procedure followed in re-settlement are the subject of a study by W. Allan in *Studies in African Land Usage in Northern Rhodesia*. Rhodes-Livingstone papers No. 15 (1949).

² Page 26 of Report of the Central African Council on Migrant African Labour, 1947, CSR 42—1947.

³ Page 36 of Report on Financial and Economic Position of Northern Rhodesia, Colonial 145.

but natives employed locally in Northern Rhodesia are not engaged on a contract system, and the periods of individual absence may therefore in some cases be shorter than where labour is engaged on contract for service outside the Protectorate. Nevertheless the social disadvantages must be considerable, even if not so marked as is sometimes suggested, and the absence of so large a number of men from their tribal surroundings must inevitably affect the position of the Native Authorities.¹ This has been specially marked in regard to the part taken by them in the collection of the Native Tax and to a certain extent also in the conduct of judicial proceedings.

The influence of economic developments on the structure of native society has also been seen in the formation of the large aggregations of Africans of mixed tribal origin in the Copperbelt and along the line of the Railway. The body of labour actually employed in the four Copper Mines and the Broken Hill Mine was given in 1946 as 31,463, but they were accompanied by a large number of dependants, and the Copperbelt has also attracted a large population which lives in conditions which if not fully urbanized are at all events detached from tribal life. Though no accurate figures exist, it has been estimated that the five Copperbelt towns and Broken Hill have a total population between 140,000 and 160,000. So far as this population lives in the mining compounds or the Townships, it does not come within the jurisdiction of the Native Authorities, though it creates an interesting problem in the administration of native justice, to which reference will subsequently be made.² But all observers agree as to the influence exerted on the neighbouring rural communities by the resort to the Townships of large numbers of casual labourers or dependants, free from tribal discipline, and often looking to crime as a means of livelihood.

THE RESOURCES OF THE AFRICAN POPULATION

There is a general agreement as to the relatively low resources available to natives in the territory, apart from those who earn wages in the mines or European commercial undertakings. It is impossible to study the volumes of the Ecological Survey without being impressed by the existence of very large areas in the Protectorate marked by poverty of soil, absence of water, or the prevalence of fly. The density of population in the Protectorate as a whole is only six per square mile, and in the Western Province only 3·2. The general poverty of the soil is evidenced by the wide use of the *chitemene* method of cultivation to which reference will be found in the following Sections dealing with the conditions in different Provinces. There are several variations in the *chitemene* method, but basically it consists in the collection of timber and brushwood from a wide area around the plot to be cultivated and burning it in order to obtain a fertilizing ash which also serves as a seed bed.³

The poverty of conditions is also reflected in the difficulties that have been encountered in the imposition of a Native Tax.⁴ The history of this tax up to the year 1937 is given at length at pages 111 to 128 of the Report of the

¹ The somewhat conflicting views held on the effects of labour migration on native life are discussed on page 39 of the Report on Financial and Economic Position of Northern Rhodesia, Colonial 145.

² See page 150.

³ The Soils, Vegetation and Agriculture of North-Eastern Rhodesia, C. G. Trapnell, 1943, paragraph 325.

⁴ The various Ordinances imposing the Native Tax have been consolidated in Cap. 161 of the 1948 edition of the Laws of Northern Rhodesia.

Financial and Economic Commission to which reference has already been made. It shows that there had been between the years 1920 and 1937 constant difficulties in its collection, resulting in arrears which on at least four occasions exceeded the total annual liability on account of the tax, and in a high proportion of prosecutions for default, in spite of the fact that in some of the worst years the number of exemptions from the tax stood as high as 78,000. There is no matter which has caused graver anxiety to the Administration or received fuller consideration from it, as shown not only by the number of times it has been debated in the Legislative Council, but by the number of Committees appointed by Government to deal with it.

The situation as it stood in 1937 was the result of the recommendations of a Committee which reported in 1934. Following the Report of that Committee, substantial reductions were made in the rate formerly imposed in some of the Districts, and the general principle was adopted of basing the assessment not on the domicile of the taxpayer but on his residence, one month's continuous stay in a District constituting residence for the purpose of determining the rate to be paid by him. The purpose was, of course, to adjust the assessment to the special circumstances of a territory where so large a number of taxpayers resort to the industrial or commercial areas to earn their living. The tax was a simple poll tax on adult males, the plural wives tax having been abolished in 1929. A general rate of 7s. 6d. per head was fixed for all Districts away from the line of the Railway. In the Railway belt a rate of 10s. was imposed in three of the Districts; in three others the rate was 12s. 6d., while natives employed in the Copper mines paid a tax of 15s. The net result was that of the total number of taxpayers, then standing at 285,104, about 9 per cent. paid tax at 15s., 14 per cent. at 12s. 6d., 23 per cent. at 10s. and 54 per cent. at 7s. 6d.¹

The revised system undoubtedly improved the situation in so far that it succeeded in adjusting the incidence of taxation more closely to the resources available to the taxpayer in different areas of the territory, though there remained considerable difficulties in collection, owing largely to the absence of any system of registration of natives as a basis for the assessment or collection of tax. But there remained also one major objection. The Report of the Commission of 1938 expressed the considered opinion that in none of the outlying Provinces, except possibly in restricted areas, were natives able to pay a tax of 7s. 6d. on the basis of their local resources.²

The position was subsequently considered by Committees which reported in 1938, 1944 and 1948, but it has not so far been found possible to devise any alternative method which would meet the special circumstances existing in the Protectorate, and the system detailed above is in force to-day, with one important exception. There has been a further variation in the incidence of the tax. In 13 Districts and parts of two others, it is now 6s. In six Districts and in parts of a number of others it is 7s. 6d.; in two Districts, and parts of others it is 10s.; in the Broken Hill Township it is 12s. 6d.; and in the five Copperbelt Districts it is 15s.³ The total revenue from the tax stood in the estimates of 1947 at £154,000, and thus constituted only about 6 per cent. of the total revenue derived by the Protectorate from direct taxation.

¹ Report of Committee on Native Taxation, 1938.

² Colonial No. 145 (1938), page 120. The Address of the Governor to the Legislative Council in the opening Session of 1937 supports this view.

³ See Blue Book for 1945, page A.3.

THE STRUCTURE OF AFRICAN SOCIETY

Turning now, to the structure of native society in the territory, there is one outstanding fact. Practically the whole of the African population is Bantu speaking and has descended from tribes which invaded the country not earlier than 1700 A.D. One or two small tribes, numbering only a few thousand, such as the Subia on the Zambezi, are all that now remain of the inhabitants of the territory prior to that date.

The Northern Rhodesia section of Bantu speaking people are believed to have come mainly from that part of the race which travelled southwards through what is now the territory of the Belgian Congo. It apparently left the main group in the vicinity of Lubaland and traversed the fertile country drained by the headwaters of the Zambezi river and the tributaries of the Luapula, though a small section may have reached their destination by the route east of Lake Tanganyika, as certain tribes have a well established tradition that they came from the north-east. There are now some 73 tribes in the Protectorate, speaking thirty different dialects, though falling into six main language groups, but so much intermixture has taken place between them that it is often difficult to distinguish even approximately the boundaries of tribal areas, while the creation of the Native Reserves and the enforced movement of tribes into them has further added to the complication.

It is not possible to give here the numbers included in different tribes, since no complete census has been taken of the Africans in the Protectorate. The census of 1931, was, so far as they are concerned, only a rough estimate, and its Report, while giving a quantity of detail about the 176 Asiatics and 425 non-native coloured persons, made no reference to the tribal composition of the African population. In a Memorandum issued in 1934 Mr. Moffat Thompson gave an estimate of the numbers falling into each of the six principal language groups, and though this did not claim any accuracy, it is of interest to summarize the figures given by him.

Group	Language-speaking	Total Population	Principal Tribes
1	Mambwe-speaking tribes	58,006	Mambwe (14,886) Lungu (24,028) Inamwanga (8,965) Iwa (6,863)
2	Tumbuka-Nyanja-speaking tribes	259,767	Chewa (78,400) Senga (67,477) Ngoni (53,991) Chikunda (27,177) Tumbuka (14,553) Ambo (9,092)
3	Wemba and Lala-Lamba speaking tribes	412,747	Wemba (114,274) Wisa (41,591) Lala (41,432) Kaonde (37,952) Ushi (28,958) Ngumbu (24,116) Chishinga (22,604) Lamba (22,309) Unga (13,670) Swaka (12,496) Mukulu (10,522) Kawendi (9,189) Lima (9,013) Tabwa (7,918) Shila (5,536)

Group	Language-speaking	Total Population	Principal Tribes
4	Tonga-Ila-speaking tribes	226,487	Tonga (82,586) Lenje (40,481) We (19,799) Ila (18,653) Totela (14,160) Soli (13,028) Toka (9,458) Gowa (7,015) Sala (6,961) Leya (5,903)
5	Sikololo-speaking tribes	154,761	Lozi (67,193) Kwangwa (25,497) Ndundulu (21,962) Sumaa (9,109) Shanjo (7,910) Makuma (7,605)
6	Lunda-Luba-speaking tribes	249,200	Lunda (82,044) Luvale (68,943) Mbunda (23,673) Nkoya (18,543) Mashasha (13,083) Ndembo (9,464) Lukolwe (9,351) Lushange (9,349) Mbowe (5,336) Luchaze (5,323)

Among this medley of peoples, it is possible to distinguish three tribes, namely, the Barotse (Lozi), the Bemba and the Angoni, who retain a political identity which has withstood in some measure the many disintegrating factors which have marked the history of most other tribes in the Protectorate. Apart, however, from these three tribes, most other tribes of Northern Rhodesia have been in varying degrees disintegrated and disorganized. Some never had any degree of cohesion, others have suffered from intertribal wars and the effects of the Slave Trade. Where the Railway line now runs there is little tribal authority, and this state of affairs existed before the coming of the Europeans. Among the Tonga, who belong to the large Tonga-Ila language group, the authority of Chiefs has been practically non-existent.

Elsewhere, some of the Chiefs who received recognition at the outset of British occupation were at the time little more than headmen, picked out for some special reason, but they have been gradually replaced by persons having a more acknowledged authority. The cattle-owning Ila are disunited and independent. Further north in Mumbwa there is a great medley of tribes. To the west of Lake Bangweolu and round the north-western fringe of the Bemba plateau tribal areas are small; thirteen tribes, for instance, are congregated round the headwaters of the Luangwa river.

In some cases sections of tribes in Northern Rhodesia owe allegiance to Paramount Chiefs in other territories. Thus the Chiefs traditionally recognized as Paramounts by the Lunda and Luvale are in the Kasai country of the Belgian Congo and that of the Inamwanga is in Tanganyika Territory, while the Paramount of the Chewa is a comparatively late arrival in Northern Rhodesia from Portuguese East Africa. In the Ndola and Serenje Districts are to be found the principal Chiefs of the Lamba and Lala tribes, but a number of their people live in the Belgian Congo under minor Chiefs. Other tribes that may

be mentioned as occupying land in more than one territory are the Tumbuka, Ngoni, Chewa, and Senga in the east; the Gowa, We, Leya and Subja on the south; the Luvale, Lunda and Luchaze on the west; and Luba, Kaonde and Sewa on the north.

THE EARLIER DEVELOPMENT OF THE SYSTEM OF NATIVE ADMINISTRATION

The development of the system of native administration up to 1937 has been fully described at pages 179-181 of the Report of the Commission of 1938, but it may be convenient to summarize here the facts there given. The Report explains that, except in Barotseland and the Bemba and Angoni country, little indigenous organization remained when administration was taken over by the Protectorate Government. Under the Chartered Company the policy was in the main one of direct rule, the Chiefs being used as agencies of Government and their authority and privileges upheld so far as these were not incompatible with the rule of the Company. Though however the forms of tribal government were maintained, it is generally agreed that the authority of the Chiefs was undermined by their dependence on the Native Commissioners. The relations between the Government and the Native Authorities were more closely defined by the Administration of Natives Proclamation of 1916, which made provision for the appointment and dismissal of recognized Chiefs and defined their duties. Native Commissioners were made responsible for the general control of their Districts and Chiefs, and the headmen could be punished for failing to carry out reasonable orders or requests either of the Chief or the Native Commissioner. Under this provision Chiefs were able to exercise considerable control over their people; they had in particular the service of customary labour for their gardens and paid labour for Government was recruited through them. They were paid small subsidies by the Government.

After the administration was taken over by the Crown in 1924, attention was directed to bringing the system of native administration more into accordance with the general policy in British tropical African territories. In 1927 a conference of Administrative Officers recommended the introduction of a system of indirect rule, with the important limitation that financial responsibility should not be given, at any rate for a considerable time, and the Native Authorities and Native Courts Ordinances of 1929 were drawn up in accordance with these recommendations. They provided for the recognition of Chiefs and the establishment of Native Authorities and Native Courts by the Governor, but no provision was made for the establishment of Native Treasuries, and Chiefs continued to be paid by direct subsidies. Some definite progress was made under these Ordinances, especially on the judicial side, but the results were limited by the absence of any training of the Chiefs in financial responsibility.

In 1936 new Ordinances were enacted,¹ following the pattern of the Tanganyika and Nyasaland laws, and providing for the recognition by Government of Native Authorities and Native Courts, to be constituted in accordance with native law and custom, but except for the fact that provision was now included for the establishment of Native Treasuries, the Native Authorities Ordinance of 1936 did not differ materially in substance from the Ordinance of 1929. Save for some verbal amendments effected by Ordinance 4 of 1946,

¹ Ordinance 9 of 1936 which applied to all the Protectorate except Barotse Province, and Ordinance 25 of 1936 which applied to Barotse Province.

the Ordinance of 1936 remains in force and regulates the constitution and powers of the Native Authorities.

Since it follows in its major provisions the Native Authority Ordinances of Tanganyika and Nyasaland, it is only necessary to note here two points. It defines a Paramount Chief, Chief or Sub-chief as a native who has been "recognized" by the Government as occupying that position, and defines a Native Authority as any Paramount Chief, Chief, sub-chief or other native, whether by himself or in Council, or any Native Council or any group of natives declared to be a Native Authority under the Ordinance. The Ordinance No. 25 of 1936 relating to Barotseland is in substance the same as Ordinance No. 9 relating to the rest of the Protectorate, but has some minor modifications which will be referred to in the Section relating to that Province.

During the period which has elapsed since 1936, much of the attention of the Administration has been directed towards the rebuilding of the traditional tribal organizations. The local Bantu tribal system is essentially territorial, and involves a chain of authority running from the Chief to the sub-chief and from the sub-chief to headmen, with at the lowest stage the heads of kinship groups who can issue orders and arbitrate on disputes within their groups, though they may have no power to enforce their decisions. There are therefore various threads of authority, but all these threads are woven together in the tribal organization.¹ In order to carry out this conception the boundaries of Native Authority jurisdiction have as far as possible been modified in accordance with the tribal distribution. In some cases where tribal organization had broken down, it has been found possible to combine sections of different tribes, as, for instance, in Mumbwa, where the medley of tribal sections have been united under two Native Authorities. In every case, however, the effort has been to emphasize the position of the Chief as head of a community, acting with traditional advisers and dependent on their support.

THE PRESENT FORM OF THE NATIVE AUTHORITY SYSTEM

The structure of the Native Authority system which emerged as the result of these developments followed much the same pattern throughout the Protectorate, namely, the appointment of a Superior Native Authority, with Subordinate Native Authorities exercising the powers conferred by the Ordinances, but subject to the control of the Superior Native Authority. In the majority of cases the latter is a Paramount Chief or other leading Chief, but in some others a Council of Chiefs or a Tribal Council. It is however noteworthy that in every case the Government Notification did not confer powers either as a Superior or Subordinate Native Authority on a Chief individually, but on the Chief and a tribal or other Council. The result is summarized in the table on the next page, which gives the position as it stood early in the year 1948.²

Subsequent Sections of this Chapter will describe in further detail the composition of the Native Authorities as it stood in 1948, but it should be explained that in the course of that year the system came under revision in certain respects. As a consequence, Subordinate Native Authorities and their Councils are being abolished. The Superior Native Authorities are to consist of the Chiefs, hereditary Councillors and elected or nominated Councillors,

¹ See M. Gluckman at pages 39 to 41 of *African Political Systems*, 1940.

² See list of Native Authorities as gazetted on pages 16 to 23 of the 1948 edition of the *Northern Rhodesia Laws*, Cap. 157.

some of whom are to have executive departmental functions and may be "educated commoners." This system was being applied in the first instance to the Central and Eastern Provinces, but its detailed application had not reached a stage which would have made it possible to give a full description of it in this survey. The subsequent Sections must therefore be understood as referring to the position as it was seen before the reorganization took place.

Province	Superior Native Authorities			Subordinate Native Authorities
	Chief and Tribal Council	Council of Chiefs	Tribal Council	Chief and Council
Barotse	1	—	—	5
Western	14	—	—	83
Southern	—	—	4	47
Central	4	—	3	44
Eastern	8	—	—	30
Northern	9	1	—	56
Total	36	1	7	265

THE ORGANIZATION OF NATIVE JUSTICE

Before, however, proceeding to deal in further detail with the organization of the Native Authority system in the different Provinces, it will be convenient to add here a reference to the position of the Native Courts in the Protectorate. The Native Courts Ordinance of 1929 was a brief law providing for the setting up of Native Courts and their general supervision by Magistrates. The Native Court Ordinances of 1936 were much more elaborate.¹ They provided for the recognition of Courts by warrants setting forth their powers and jurisdiction, which would vary according to their capacity and importance. The Native Courts were almost invariably the same as the Native Authorities in composition, and though Councillors usually sat to advise Chiefs, the warrants normally made no mention of these advisers. The Ordinances of 1936 have been amended by Ordinances 17 and 18 of 1940, 21 of 1942, 12 of 1944, 30 of 1945, and 23 and 29 of 1946, but these amendments are mainly of details, and the 1936 Ordinances are otherwise still in force.

They provided that the Native Courts shall be such as are "recognized" by the Governor or by the Provincial Commissioner on his behalf. Their powers are to be defined by warrant, but failing any prescription to the contrary in the warrant, they are to be constituted in accordance with the native law and custom of the area in which the Court has jurisdiction. Their jurisdiction is normally to be exercised over civil issues and criminal cases in which natives are concerned (sections 8 and 10), but no Native Court has jurisdiction in cases in which a person is charged with an offence punishable with death or imprisonment for life, or cases relating to witchcraft (save with the approval of a District Officer) or cases in which a non-native is a witness.

¹ Native Courts Ordinance 10 of 1936, which applied to the whole Protectorate except Barotseland; Ordinance 26 of 1936 applying to Barotseland.

The Ordinances have followed those of Tanganyika and Nyasaland in providing that a Native Court shall administer native law and custom (so far as it is not repugnant to justice or morality or any law in force in the territory), the provisions of Rules or Orders made by Administrative Officers or Native Authorities, and the provisions of any Ordinance which Native Courts are authorized to administer under the terms of the Ordinance or by special order of the Governor. Rules made by the Governor under Section 39 of the Ordinance in order to carry out the purposes of the Ordinance must, under the Amending Ordinance 29 of 1946, be laid before the Legislative Council and may be revoked or amended by it in pursuance of a Resolution passed to that effect.

THE CLASSES OF NATIVE COURTS

The warrants normally divide the Native Courts into three classes. The first contains A Courts, having civil powers in issues up to a value of £25, and criminal powers up to the imposition of 1 month's imprisonment, £5 fine, or 6 strokes. The second class contains B Courts, with civil powers up to £50, and criminal powers up to 3 months' imprisonment, £10 fine, or 10 strokes. The third class, the C Courts, have civil powers up to £100, and criminal powers up to 6 months' imprisonment, £20 fine and 10 strokes. A Rule issued under Section 39 of the Ordinance provides that no sentence of corporal punishment shall be carried out unless confirmed by a District Officer. The Courts in Barotseland have a somewhat different scale of powers, to which a more detailed reference will be found in Section II.¹

OTHER PROVISIONS APPLYING TO THE NATIVE COURTS

The range of Ordinances administered by the Native Courts under the provisions above referred to is more restricted than in some other territories. In the five Provinces other than Barotseland, the rural native Courts administer only the Native Beer Ordinance and Regulations and the African Education (Compulsory School Attendance) Regulations, but there are, as shown in Section VIII, special provisions applying to the nine Urban Courts.² As shown in Section II, there is a more extended list of Ordinances applicable to the Native Courts in Barotseland. It is noteworthy that in the Protectorate the Native Courts do not administer the Native Tax Ordinance or deal with defaulters under it, and cases of this nature make a heavy addition to the work falling on Administrative Officers acting in their capacity as Subordinate Courts.³

The Ordinances make the same provision as those of Tanganyika and Nyasaland for supervision by Administrative Officers, who thus have the power of suspending, reducing, annulling or modifying decisions or sentences, or ordering re-trial or transfer to a Subordinate Court. There is, however, an important variation in the Ordinance applying to Barotseland, which provides that the access of Administrative Officers to the proceedings of the Courts, and their powers of review, shall be limited to criminal cases.

The Ordinances further make provision for the establishment of Native Courts of Appeal under the warrant of the Provincial Commissioner. Appeals

¹ See page 100.

² See page 151.

³ Established under Ordinance 36 of 1933. (Cap. 4 of Laws). These Courts, which are subordinate to the High Court, are normally presided over by Administrative Officers, but in the Copperbelt Districts they may be presided over by Resident Magistrates.

from a Native Appeal Court lie to the District Commissioner, but where no Native Appeal Court has been established, appeals lie to the District Officer's Court. Appeals from the District Officer's Court lie to the Provincial Commissioner, and from the Provincial Commissioner or District Commissioner to the High Court. There is thus an avenue of approach from the Native Courts to the High Court (*a*) in cases transferred to the Subordinate Courts and (*b*) in the course of appeal from the Provincial Commissioner or District Commissioner.

An important change was made in 1948 in the organization of the system of Native Justice by the appointment of a Judicial Adviser to the Native Courts.

SECTION II

BAROTSE PROVINCE

THE AGREEMENT OF 1900

It is appropriate to give priority here to the Barotse Province, since Barotseland presents a picture of a more unified type of native rule, under a centralized system of administration, than any other part of the Protectorate.¹ The special position which it occupies is however due rather to the strength of the institutions originating with the Lozi tribe than to any contractual provision such, for example, as that which guaranteed the status of the Native Government of Buganda.²

The North Western Rhodesia Order in Council of November, 1899, provided that the administration of this part of Rhodesia should be carried on by the Chartered Company under the control of the High Commissioner for South Africa, who was empowered to make laws by Proclamation providing for raising revenue and generally for its government. An agreement made on 25th June, 1898 between Lewanika as "Paramount Chief or King of the Barotse Nation" and the British South Africa Company was formally executed on 17th October, 1900, and was subsequently approved by the Secretary of State for the Colonies as having the force of a treaty between the British Government and the Barotse nation.³

The terms of the Agreement with Lewanika differed widely from those of the Buganda Agreement of the same year. It dealt primarily with matters which were then of special concern to the Company, such as mining and land rights. In return for an annual payment of £850, it gave the Company the monopoly of trading and mineral rights, while reserving from prospecting certain areas which originally comprised a strip near Sesheke and a portion of the Barotse Valley, but were by subsequent arrangement extended to an area

¹ The area of the Barotse Province and the number and density of the African population are given in the Estimates of the 1946 Census as follows :—

District	Area in Square Miles	African population	Density per Square Mile
Kalabo	7,340	65,000	8·9
Mankoya	14,450	39,000	2·7
Mongu.. ..	3,110	76,000	24·4
Senanga	11,320	52,000	4·7
Sesheke	9,760	24,000	2·4
Total	45,980	256,000	5·5

² Chapter I, page 5.

³ The proceedings relating to this Agreement are printed as an Annexure to the Papers Relating to the Special Reference to the Privy Council in the matter of Southern Rhodesia (A.C. 211, 1919). They have also been analysed in pages 55 to 69 of the Report of the Commissioner on the Relations of the Barotse Paramount and the chiefs of the Balovale District, November, 1939.

covering about three-fifths of the present area of Barotseland. It provided that the Company should grant farms to Europeans in an area then defined as the Batoke or Mashukulumbwe country (now part of the Livingstone and Namwala Districts), but this was extended by Concessions made in 1906 and 1909 to cover all Barotseland outside the area reserved from prospecting. A further concession of 1905 gave the Company a free gift of land within a radius of 15 miles from the Victoria Falls, and also granted blocks of land not exceeding 8 square miles for the purpose of establishing Townships. These land Concessions contained a provision against the removal of villages save by agreement or by special assent of the British Government.

- As regards other matters, the Agreements provided that no "immigration" of Europeans should take place without the consent of the Barotse Chief, that the Barotse Chief should retain his constitutional power or authority as Chief of the Barotse Nation, and that the Company should have the right to adjudicate on cases arising between white men and natives, all cases arising between natives being explicitly reserved for the adjudication of the Barotse Chief. It is of importance also to note that the assent given to these Agreements by the British Government stipulated that they should not be held to confer on the Company any rights inconsistent with the Order in Council of 1899 or curtail the rights and powers of the Government for the administration of Barotseland.

The general effect of these Agreements has been that the area now included in Barotseland has been regarded as a Native Reserve, in the sense that it is not in practice open to European settlement, and that it contains no Crown land. Viewed, however, from the standpoint of the jurisdiction exercised by the Protectorate Government, the effect of the Agreements was to create a prolonged period of uncertainty as to the authority possessed by local officers of the Administration, particularly in regard to judicial matters. A Proclamation, No. 6 of 1905, limited their jurisdiction to cases in which a non-native was involved, or the more serious class of native cases, but, even so, a doubt was entertained whether the High Court had any jurisdiction in Barotseland. There was an equal uncertainty in executive matters, since it was doubted whether Administrative officers had any power to help the Chiefs to enforce their orders or their decisions in civil and criminal cases. Whatever the justification for such uncertainty, it added to the other factors (such as the isolated position of Barotseland) which combined to produce the stagnation which for many years marked the history of the Province, and in particular prevented attention being given to the improvement in the organization of the system of native administration.

THE PROTECTORATE ORDINANCES OF 1936

This period of uncertainty ended in 1936 when, after consultation with the Paramount Chief and the Kuta and with their agreement,¹ the Government of the Protectorate passed the Barotseland Native Authority and Native Courts Ordinances, 25 and 26 of 1936. The former Ordinance is practically in the same form as the Ordinance 9 of 1936 relating to the rest of the Protectorate, but it also provided that in Barotseland the powers conferred on the Governor should be exercised by him in accordance with the provisions of any subsisting Agreement between the Crown and the Paramount Chief. It is also note-

¹ Jurisdiction Agreement 21st September, 1936.

worthy that in the case of Barotseland, the Native Authorities are described as "recognized" not as "appointed" by the Government.¹ There are various points also where it is provided that there should be previous consultation with the Paramount, as, for example, cases in which the powers of sub-chiefs are to be cancelled or their orders revoked.

As already remarked in Section I, the Native Courts Ordinance was in the same form as the Native Courts Ordinance (10 of 1936) relating to the rest of the Protectorate, save that it provided that the access of Administrative Officers to the proceedings of Native Courts and the power of revising their decisions should be limited to criminal cases (Section 31). This Ordinance likewise contained a provision that in certain cases, as, for example, the suspension of a member of a Native Court, action should be taken on the recommendation of the Paramount. It may be added, that the position of the Crown was placed beyond doubt when in 1941 the Government decided on the removal of the Lunda and Luvale tribes from the jurisdiction of the Barotseland Paramount.² Though this decision was accepted by the Paramount Chief and his Council, the actual decision was an Act of State which the Government was prepared if necessary, to enforce.

THE TRIBAL STRUCTURE

In a study of the present system of native administration in Barotseland, it is important to appreciate the character of the tribal structure of the people in the extensive area concerned. For reasons that will subsequently appear, it will be convenient to examine this as it stood before the year 1941. The population of Barotseland consists of a number of tribes, over whom the Lozi have acquired an effective political control. Some of these tribes belong to the Sikololo speaking group and others to the Lunda-Luba or Tonga-Ila speaking groups referred to in Section I. The majority originally came to the Protectorate through what is now the Belgian Congo, though the population has more recently been increased by migration from Portuguese West Africa.

The early history of Barotseland is fairly well chronicled. The Luyi people who lived along the upper reaches of the Zambezi River were about 140 years ago conquered by the Baruhutse—a branch of the Bechuana tribe—but about 1836 the Baruhutse were in turn conquered by the Makololo, a section of the Suto tribe which had fled northwards into Bechuanaland as the result of Zulu raids from Natal. The Makololo, under the leadership of their chief Sebituane, a Bafokeng chief of Basuto stock, occupied most of the lands held by the Lozi in the central Barotse Valley, and part of the Lozi withdrew north, where they established two or three kingdoms, others becoming Makololo subjects.³ In 1873, Sipopa, a chief of Luyi ancestry who had grown up among the Makololo, seized one of the northern chiefdoms, and from there almost annihilated the Makololo, already weakened by internecine strife. The Makololo women passed into the keeping of Chiefs and other men of mixed Luyi and Baruhutse descent, and as a result, the Sesuto language modified by Luyi became the dominant tongue, under the designation of Sikololo or Silozi, replacing the former use of Siluyiana.

¹ See for example Government Notice 183 of 1947.

² See page 91.

³ The Ila-speaking Peoples of Northern Rhodesia, E. W. Smith and A. M. Dale (1920) Page 28.

The people of this Luyi-Baruhutse-Suto ancestry, who were distinguished by the name of Rozi or Lozi,¹ gave proof of virility and cohesion which enabled them to acquire a predominant position among the other more loosely organized tribes in the Zambezi Valley and its neighbourhood, and they also raided part of the Toka, Tonga and Ila countries. When they first came into contact with the British they were recognized as exercising rule over a medley of tribes, of whom the more numerous were sections of the Lunda, Luvale, Kwangwa, Luchaze, Mbwera, Nkoya, Nyengo and Totela peoples. Owing to the extent of the intermarriage of the Lozi with other tribes it is impossible to be precise as to their number at this period nor the proportion they bore to the total population of Barotseland. They were estimated at 67,193 in 1934 and 54,000 in 1938.²

It is equally difficult to determine the exact limits of the area over which their authority then extended or to define in precise terms the nature of that authority. There is no doubt as to the strength of the position of overlordship acquired by Lewanika, who became Paramount in 1879, or the authority which he and the Lozi ruling caste exercised through the appointment of Lozi Indunas or subchiefs in many of the tribal areas. But it seems inadvisable to employ in this connection the terms "subject tribes" or "tributary tribes" which have sometimes been used in this connection, for African custom is too elastic to permit of precise categories of this nature. It is clear at all events that there were some tribes, such as the Lunda, and perhaps the Luvale, over which Lewanika claimed jurisdiction, but which were subsequently able to assert that they had never paid tribute to him, and it is equally clear that between the years 1884 and 1896 he was engaged in quelling attacks on his authority nearer home in the Zambezi valley.

The uncertain character of the jurisdiction exercised by the Lozi Paramount over some of the Barotseland tribes was made apparent in the proceedings leading up to the decision of 1941, already alluded to, which removed the Balovale District from Lozi control. Belovale was one of the six Government Districts into which Barotseland had up to this time been divided, and was inhabited mainly by the Luvale, Lunda and Luchaze tribes. The prime movers in the claim for separation were the Lunda, who had continued to look on the chief Mwatiamvya in the Congo as their overlord. The reasons for the decision are given at length in the Report of the late Sir Philip MacDonell's Commission, which made its recommendations in 1939, and action was taken by the Government on the Report in July, 1941.³

The result was to remove practically the whole of the Balovale District from the jurisdiction of the Paramount and Kuta, and to transfer it from the Barotseland Province to the Kaonde-Lunda Province, now the Western Province. Compensation amounting to £6,000 was given to the Lozi Paramount for such rights as were held to exist in respect of land and minerals, and £2,000 in respect of rights in game, fishing and ivory. The merits of the decision are still a matter of local controversy, but it is both unnecessary and

¹ Various explanations have been given for the origin of the term Rozi or Lozi. It is possibly taken from the Buluzi country from which the Lui believed they came, or it may be the Sesuto form of Ba-Luizi. Barotse is said to be the Sesuto pronunciation of the Lui word Barozi. It is probable, however, that the various names are merely the result of different dialectal pronunciations of a word derived from a Bantu root meaning "water." Thus the name would denote "people of the river."

² Memorandum on Native Tribes of Northern Rhodesia, J. Moffat Thompson, 1934 and page 191 of the Report of Financial Commission, Col 145 (1938).

³ See Northern Rhodesia Government Gazette, 9th July, 1941, and Ordinance 12 of 1941.

undesirable to canvass them here. It is enough to say that it was loyally accepted by the Lozi Paramount and his Kuta.

Since 1941, therefore, the jurisdiction of the Barotseland Native Administration has been confined to the areas comprised in the five Government Administrative Districts (Kalabo, Mankoya, Mongu-Lealui, Senanga and Sesheke) which now constitute the Barotse Province. In the circumstances, it is natural to ask how far the people of Barotseland as it is now constituted can be described as a "nation," to use the term employed in the Agreement of 1900. Put in another way, it may be asked how far Lewanika, to whom the development of Barotseland as a political entity was largely due, can be said to have secured among the various tribes in Barotseland a unity similar to that secured by Moshesh among the tribes now constituting the Basuto nation? If the people of Barotseland have not attained the same degree of cohesion as the Basutos, it is no doubt partly because Lewanika was not obliged to face attacks aiming at the annexation of native lands similar to those which enabled Moshesh to effect the fusion of the tribes in Basutoland. It is natural that the award of 1941 in favour of the Lunda and Luvale should have stimulated ambitions for separatism in some other quarters, notably, for instance, in parts of the Mankoya District.¹ On the other hand, it is clear that in Barotseland as it is now constituted, there exists a strong sentiment of traditional respect for the position of the Paramount, and a general desire to maintain the unity of the people within his jurisdiction.

There has been an increasing fusion of language and custom. Silozi is now becoming the lingua franca of the country and most of the tribes longest resident in Barotseland understand it. If there is to-day a distinction drawn between the Lozi and other tribes, it is based mainly on the period at which they are held to have arrived in Barotseland, and it is common to speak of the inhabitants as roughly divided into Lozi and Wiko, the latter term denoting the new arrivals, mainly from Portuguese West Africa, such as some of the Luchaze, the Chokwe, the Kangala, and the "new" Mbunda. There are still in the older groups some, such as the Subia, who are not fully assimilated with the Lozi, but large sections, such as the Lwanga, Mwenyi, Makoma, Nundulu and Sanjo have adopted Lozi custom, even to the extent of adopting the patrilineal instead of the matrilineal line of succession. Owing to the extent of the inter-marriage of the Lozi, it has become increasingly difficult to speak of them as a separate entity, and where the name is used in the following pages it should be understood as referring to persons of mixed Lozi descent. On the whole, it may be said that to-day the chief problem of the Barotseland Native Administration is caused not so much by claims of separatism, as by demands made by tribes of the older groups for representation within an organization in which men of Lozi descent still provide the leading figures.

THE ORGANIZATION OF LOZI RULE

For the Lozi people, as such, the centre of interest was always the Barotse Plain which they inhabited, and the system of rule they developed for themselves was strongly influenced by the physical circumstances of this area, in which the economy of native life is regulated by the Zambezi floods and by the annual migration which they involve. It is necessary to emphasize this fact, since the attempt to adapt the typical Lozi institutions to the control of

¹ Annual Report on African Affairs, 1947, page 73.

the extensive areas occupied by other tribes has been responsible for many of the problems which the Lozi regime had to face in the past, and which indeed it still has to surmount.

From early times, the central Lozi authority has been the Paramount and his Kotla or Kuta,¹ a body of which the members seem originally to have belonged to the ruling branch or at all events to leading Lozi families. The personal authority of the Paramount was enhanced by the fact that he was recognized as the controller of the Lozi tribal lands, and he was in fact the personal proprietor of many of the "mounds" which are the most stable feature in the flood area of the Zambezi valley. Outside the headquarters area of Lealui or Nalolo, the Lozi tribesmen were controlled through representatives or officials subordinate to the Paramount and his Kuta.

Here, however, there was a complication which was to be the cause of some confusion when the British introduced a system of administration based on territorial Districts. The administrative units into which the Lozi tribal lands were divided formed territorial divisions (*silalo*, plural *lilalo*) merely so far as concerned the control of lands and the Paramount's rights in them, such as the requisition of labour. For political, judicial or other purposes the tribesmen were divided into sectors (*makolo*, plural *likolo*), consisting of groups of people who were placed under the control of a Councillor, residing at the capital. The members of a sector were scattered over the whole of the Lozi country, and in one area, even in one homestead, there might be members of different sectors. The Councillor (*toho* or *muzumaisi*) responsible for a political sector might have under him several sub-councillors, but the result of this system was not unnaturally a marked concentration of executive and judicial control at the headquarters at Lealui, with little local autonomy. A Councillor in charge of a land-district had as such no say in judicial or other issues arising between members of a political sector, save perhaps in so far that he might be also a Councillor in the Central Court. This system differed of course widely from the normal Bantu organization, in which political divisions are territorial, and the Chiefs or sub-chiefs in charge of divisions possess a varying degree of autonomy within the framework of the tribal organization. The Lozi system was, as has been said, "consistent with the low correlation of constant inhabitants and locality, and with the relationship of people to individuals possessing power by virtue of their ownership of mounds."²

The overlordship exercised by the Lozi over other tribes seems to have involved at the outset only a skeleton form of rule, conducted through the indigenous Chiefs. But with the development of a closer form of control under Lewanika, the tendency was to extend the system of political sectors, the people being allocated to different sectors, of which the Lozi Councillors in charge sent representatives into areas which had people belonging to their sector. The result was not only to increase the concentration at headquarters, but to create complications with indigenous Chiefs which increased in proportion with their distance from Lealui. It was only to be expected also that new difficulties should arise when the British introduced their system of civil administrative Districts on a territorial basis. To the earlier British administrators, the political sector seemed to relate only to a military or labour-regiment organization which had no longer any practical function, and the

¹ The word Kuta is now used in a general sense to denote the Native Administration, but is also applied specifically to denote the body (such as a Headquarters or District Kuta) having executive or judicial functions.

² M. Gluckman at p. 95 of Rhodes-Livingstone Papers, No. 7, 1944.

land-district, the silalo, appeared to be the only workable basis for tax or similar purposes.

THE LOZI SYSTEM OF COUNCILS

There was another feature in the original Lozi organization which requires some explanation, in order to appreciate the form now taken by the system of native government in Barotseland. As already stated, the central authority had always consisted of the Paramount and his Kotla or Kuta. The Lozi Kuta appears to have consisted originally of three Councils, the Sikalo, the Saa, and the Katengo. Of these the Saa, over which the Chief Minister (Ngambela) presided, was the senior; the Katengo was a more numerous body, with a representation which gave it a recognized position as the more "popular" body. All three bodies contained members designated as "sitting on the Right," that is, office holders, and others designated as "sitting on the Left," that is, members of the ruling family and others holding traditional Court posts. The Saa and Sikalo members "of the Right" were called Makwambuyu, the Katengo members of the Right, a certain number of whom were nominated from each territorial sector, being known as Malume.

In all routine matters the Kuta worked as one composite body, though with a somewhat complicated order of sitting, routine matters being described as questions regarding acceptance of tribute, distribution of land and control of public works. The combined body also heard appeals in law cases. In other matters, and particularly those involving issues of major importance to the Lozi, the Kuta was divided formally into the three Councils. The head of the Katengo reported the decision of his body to the head of the Saa together with the arguments on which they were based, and the head of the Saa reported these together with the Saa's arguments, to the Ngambela, as president of the Sikalo. If all three Councils agreed a decision was taken. If not, the Councils sat again, this time having the advantage of knowing each other's views, including those of the Sikalo, which were reported to the other Councils. If they could not agree the Sikalo's decision had the greatest weight, but the Paramount and Ngambela might follow the Katengo's decision against both upper Councils. It is said that they respected the Katengo "as speaking for the mass of the people."

Under the British, the Sikalo at Lealui became the Appeal Court for the Province, and the Saa and Katengo were formed into the District Court and Authority for Lealui District. The Sikalo and Saa were still, however, regarded in many matters as a single senior body and in important matters the two bodies consulted together, but the Katengo definitely declined in importance. About 1936 the Katengo practically ceased to function, and a Council, under the name of Saa-Katengo, was placed in charge of the affairs of the Mongu Lealui District. In 1946, however, the name of this Council was changed to the Mongu-Lealui District Kuta, and the Sikalo Kuta, henceforth known as the Saa-Sikalo, was recognized as the authority dealing with matters concerning Barotseland as a whole.

THE PRESENT SYSTEM OF ADMINISTRATION IN BAROTSELAND

In recent times, the development of the system of native administration in Barotseland has been influenced by five factors: (a) the increasing need for the decentralization of authority to units constituted on a territorial basis; (b) the

pressure by indigenous Chiefs to acquire a more fully recognized status in the local units of Government or in the headquarters organization; (c) the necessity for adjusting the original Lozi organization to the requirements of the Barotse Native Authority and Native Courts Ordinances (No. 25 and 26 of 1936) above referred to; (d) the need for reducing the expenditure involved by the retention at Lealui of posts, such as those of the Councillors in charge of political units, which existed under the older organization but no longer retained any effective function; (e) the necessity of including a wider representation of popular interests in the central organization at Lealui.

It will be simplest to state at once the form which the native administration has now taken. It consists of the Paramount Chief and his Council at Lealui, as Superior Native Authority, with five Subordinate Native Authorities, consisting of a Chief (or District Head or President) and the local Kuta. The area in charge of a Subordinate Native Authority corresponds with the Government Administrative District, of which, as shown above, there are now five in the Barotse Province. In the area of each of the Subordinate Native Authorities there are a number of territorial subdivisions (*lilalo*), which vary in accordance with the size of the District, Kalabo for example having 35 and Mongo-Lealui 41. But for judicial or District Court purposes a smaller number of *lilalo* are now recognized, varying from seven in the Sesheke to 16 in the Mongo-Lealui District, the average being 13 per District. Each *lilalo* has its own Council or Kuta, but this is not gazetted as having powers as a Native Authority.¹

The chieftom of the Paramount is hereditary, in the patrilineal line. The present Paramount Chief, Mwanawina, is a son of Lewanika and a half-brother of Imwiko the late Paramount. The headquarters Council at Lealui, which, as shown above, is now known as the Saa-Sikaloo, has no rigidly prescribed membership, but the nucleus consists of a body of some 25 office holders, described as "sitting on the Right," though it may be attended also by certain members of the ruling family and others holding traditional Court posts described as "sitting on the Left," so that the numbers normally entitled to attend may be taken as between 30 and 40 in all.

The office holders are (1) the Chief Minister (*Ngambela*) whose appointment has always been a prominent feature of the Lozi organization, seven of the nine holders of the post having been "commoners" or of commoner descent, one a member of the ruling family, and one the son of a former *Leashimba* of Sesheke. The present occupant of the post was an interpreter in the Protectorate. (2) The Administrative Secretary—a comparatively recent creation. He is well educated and has served in the Protectorate. (3) The Chief of the judicial side (*Natamoyo*), traditionally the "Keeper of the King's Conscience," and always a member of the ruling family. (4) The *Mukulwakashiko*, the traditional Chairman of the former Saa Council. (5) Three *Indunas*, holding the senior posts of Education, Agriculture and Development. (6) Fifteen Councillors, of whom five are *Indunas* seconded in rotation from each of the five District *Kutas*, this being an innovation since 1946. (7) Five *Indunas*, holding less important "departmental" posts. The non-traditional appointments are now made on merit and educational qualifications, but the narrow range of higher education in Barotseland tends to involve a preference for persons brought up at Lealui, who are mainly of Lozi or mixed Lozi descent.

The Paramount has an Inner Council of confidential advisers, known as

¹ Government Notice 183 of 1947.

the Kashandi, from the Dining Hall in which it meets. The Kashandi has no fixed membership and consists of individuals chosen to give expert advice on the subject under discussion; it only meets when specially summoned by the Paramount, but is a body of very considerable influence. It is of interest to note that it has a parallel in the Diro of Buganda, the name of which is also taken from the Dining Hall in which it formerly met. It is the Saa-Sikalo Council which exercises, under the Paramount, the executive and legislative powers conferred on the Superior Native Authority by the Barotse Native Authority Ordinance. On the legislative side, however, the position of the Saa-Sikalo is likely to be affected by two developments, the institution of a "new" Katengo and the formal establishment of a Barotse Native Council.

As already shown, the old Katengo Council practically ceased to function in 1936. In 1946 consideration was given by the Protectorate Government, with the assent of the Paramount, to the formation of a "new" Katengo, which should reproduce the element of more popular representation which characterized the "old" Katengo Council. In 1947 orders were issued to District Commissioners to choose five members from each District for the "new" Katengo, who were to be suitable commoners and not only Lozi. They were to have no connection with the Native Government and were to be nominated after consultation between the District Commissioners and the District Kutas. To these were to be added five members of the "old" Katengo Council and the members of the Royal Family who had the right to sit on the Left of the "old" Katengo Council. The President was to be the Ngambela. Later in 1947 it was agreed that the five nominated members from each District should be replaced, one by one, every year for the next five years by elected members. There were some initial difficulties, owing to the fears entertained by the Paramount and his Advisers regarding the consequences of what naturally appeared to them to be a somewhat radical measure, but the new Katengo Council was finally inaugurated in July 1947.

The proposed Barotseland National Council will consist mainly of members selected from the Saa-Sikalo Council, with the addition of six members of the "new" Katengo. The Katengo will meet twice a year and it has been arranged that its meetings should precede those of the National Council, in order that the latter may have before it the results of its deliberations. It is clearly too early to assess the influence which this measure of popular representation may have on the organization of native administration in Barotseland. But it is of interest to note that one of the first concerns of the new Katengo was to debate the merits of a proposal for the separation of Barotseland from the Protectorate, and its recognition as a High Commission Territory on the same pattern as Basutoland.

On the judicial side the Saa-Sikalo Kuta has original powers, but actually functions mainly as a Court of Appeal from the District Kutas. The composition of the Court will be subsequently described in the paragraphs referring to the Barotseland judicial organization.¹

Some reference has already been made to the relatively high expenditure involved by the headquarters organization at Lealui, partly owing to the retention of posts connected with the older system of political sectors. The matter was examined at some length in the Report of the Financial Commission in 1938.² The matter has been the subject of constant discussion since the

¹ Page 101.

² Pages 193 to 196 of Col. No. 145 (1938).

establishment of the Barotse Treasury in 1936, and it will be sufficient to give here the results as shown in the Treasury estimates for 1949. The sums formerly paid to the Paramount under the various Agreements or from the Zambezi Saw Mills are now credited to the Barotseland Treasury, and the Paramount received in 1949 a consolidated payment of £4,400 a year, from which he provides allowances to members of the ruling family or other members "on the Left" of the Saa Sikalo who do not hold official posts. The Ngambela receives £270 (increased from £240 in 1948) and the others holding official posts a total of £865, but none of them are highly paid, the Natamoyo for instance receiving only £60 and the Indunas in charge of departments from £46 to £54.

THE ORGANIZATION OF THE SUBORDINATE NATIVE AUTHORITIES

The framework of the organization of the five Subordinate Native Authorities, each of which is, as already shown, in charge of an area corresponding to one of the five Government Administrative Districts, reproduces many of the features of the headquarters organization at Lealui. Of these Districts it may be noted that Mongu-Lealui is for the main part inhabited by people of Lozi descent. In Kalabo District, the people belong predominantly to the Wiko group, being for the most part recent arrivals from Portuguese West Africa. In Mankoya, lying on the eastern border, the population is largely Mankoya and Mashasha, and the area is mainly "bush" country, with none of the characteristic features of the Zambezi Valley. Senenga, lying south of Mongu in the Zambezi Valley, has a fairly large population of Lozi descent in the valley area, but elsewhere there are considerable numbers of Kwangwa, Simaa and Shanjo, with a considerable section of Wiko immigrants, such as the "new" Mbunda, Chokwe and Luchaze, who began to arrive in considerable numbers about 1917. Sesheke, the most southern of the Districts, has a Lozi strongpoint near Mwandu Kuta, but elsewhere the population represents a number of tribes of which the chief are the Totela, Subia and Toka; who belong to the Tonga-Ila speaking group.

Each Subordinate Native Authority has a Kuta under a President or District Head. These latter are appointed by the Paramount, and are in nearly every case closely connected with the ruling family. Thus Mulena Mukwae, the Head of the Senenga District with headquarters at Nalolo, is a daughter of Yeta III, the predecessor of the late Paramount, and is traditionally known as the "Queen of the South." Mukwae Mbowanjikana, the Head of the Kalabo District at Libonda, is also a lady belonging to the ruling family. The District Head of Mankoya, with headquarters at Naliele, was until recently the present Paramount; the present Head of Sesheke District at Mwandu is his cousin. The Induna Solami, the Head of the Mongu-Lealui District, is an exception, but he was confidant and favourite of Yeta III, and his family had for three generations provided the appointment of Ngambela.

The constitution and function of the District Kuta will best be seen by taking the Mankoya District as a typical example, since this District has a predominantly non-Lozi population, and will thus illustrate the extent to which the non-Lozi tribes are integrated in the administration. The District Kuta consists of a Senior Councillor and 13 members of whom five occupy

the posts of judges and eight those of Indunas in charge of Education, Forests and other departments. These 14 posts are held by Lozi (8), Mbunda (2), Kwangwa (1), Mankoya (1), Luchaze (1), and Mashashe (1). There are nine more subordinate members (Malume) who include junior departmental Indunas (5) and School Attendance Officers (4). The former include 3 Kwangwa and 1 Lukokwe and the latter 2 Mankoya, 1 Luvale and 1 Kwangwa.

All these officers hold paid posts, and are nominally appointed by the Paramount, though the procedure is for the candidate to be chosen locally and then approved by headquarters. Following, however, the precedent of the Lealui organization, there are also a number of persons "on the Left," such as connections of the ruling family, or persons holding the post of steward (likomba), who are entitled to sit in the Kuta, and it is also important to note, in view of what is said below regarding the territorial subdivisions (lilalo), that any Silalo Head or any of the Silalo Indunas is also entitled to a place, though their position is marked by the fact that they sit on the ground, not on a chair, and are not allowed a voice in the proceedings.

The District Kuta sits under the chairmanship of a Senior Councillor, but as at Lealui, all decisions are normally referred to the District Head, and have to be confirmed by him. They are taken to the District Head by a Senior Induna selected for the purpose. There is, it will be noted, no "popular" Council, of the nature of the Katengo at Lealui, associated with the District Kuta. The District Head receives £185 a year and his Senior Councillor £48; the Indunas who are judges receive £23 (one £27), departmental Induna £23 a year and minor departmental Indunas £18. The Kuta as such does not legislate; but it may suggest legislation to the Central Kuta; it passes Orders, however, under the Native Authority Ordinance. It has a District Treasury, which is a sub-Treasury of the Central Kuta, and frames its own Estimates. The functions of the District Kuta in its judicial capacity will be subsequently described¹.

The Mankoya District is subdivided into 13 territorial subdivisions (lilalo), each of which has a Kuta consisting of a President and two Indunas. The President of one of these Silalos is Chief Mutonde, the hereditary head of the Mankoya tribe, and another who occupies a similar position is Chief Kakari, the head of the Mashasha tribe. Most of the other Silalo Presidents are hereditary, to the extent that an heir is usually found among the family. The position of the Indunas is also hereditary, in so far that the choice is confined to certain families, mainly connected with the original tribal Chiefs or persons installed by the Lozi whose families now have an hereditary claim. If a dispute arises about succession to the post of Induna, the decision would normally be referred to the opinion of the inhabitants of the Silalo. The two Chiefs referred to above as Presidents of a Silalo receive respectively £63, and £50 a year; other Presidents receive £23 a year; the Indunas receive £18 a year. There are also a number of unpaid headmen, most of whom have hereditary posts.

The Silalo is not yet fully accepted as a territorial unit, since people residing in it are still apt to resort for administrative or similar purposes to the Indunas representing the old political (makolo) sectors. But the identification of the Silalo subdivision with the collection of tax tends to secure increasing recognition for it as a working unit. The Silalo Kuta has both administrative and judicial functions, though, as already noted, it has not the powers of a Sub-

¹ Page 101.

ordinate Native Authority. Its judicial powers will be subsequently referred to when describing the judicial organization.¹

THE BAROTSE NATIVE TREASURY

Turning now from administrative to economic factors, there can be no question of the generally low level of production in Barotseland. There are few cash crops, and in any case the isolated position of the Province is an effective obstacle to their transport. The Lozi people have not shown the same interest in cattle as many other Bantu peoples, and cattle do not form so integral a part of their social and religious life.² The Province has moreover suffered over a long period from the effects of pleuro-pneumonia in cattle. It is true to say that one of the chief economic resources of Barotseland has consisted in employment in other parts of the Protectorate and elsewhere, the extent of which has already been referred to in Section I.

Efforts have been made to improve cultivation in the Mongu District by a system of loan-ploughing operated through the Native Authorities, but this has made little progress. More permanent results may perhaps be achieved when effect is given to the decision of the Protectorate Development Authority to adopt Sefula, on the edge of the Barotse Plain, as the first site for one of the Development Centres projected in the Ten Year Development Plan.³

The relative poverty of resources is reflected in the financial position of the Barotse Native Treasury. The following figures are taken from the accounts for 1946; but it should be explained that changes made in 1947 and 1948 have had the effect of increasing the revenues of the Treasury. The Central Kuta is in charge of the Barotseland Treasury, which was instituted in 1936, each District Kuta having a Sub-Treasury. In practice the Estimates are drawn up by the District Kutas and sent to the Saa-Sikaló Council; they are then considered with the Provincial Commissioner by an informal Committee of which the Ngambela and Administrative Secretary are members. The Paramount Chief attends all meetings.

REVENUE

Native Tax	Court Fees	Other Receipts including Rent and Royalties	Government Grants	Total
£ 19,738	£ 3,590	£ 5,367	£ 5,980	£ 35,035

EXPENDITURE

Adminis- tration	Education	Agriculture Forestry Veterinary	Communi- cations	Health and Labour	Total
£ 16,143	£ 3,493	£ 648	£ 960	£ 739	£ 21,983

¹ See Page 101.

² This and other aspects of Barotse economy are discussed by M. Gluckman in No. 7 of the Rhodes-Livingstone Papers (1941) under the title of "Economy of the Central Barotse Plain."

³ Annual Report on African Affairs, 1947, page 75.

The Native tax is 6s. per able-bodied adult male, having been reduced during the depression period from the original rate of 10s., except in the Sesheke District where it remains at 10s. In 1946 the Protectorate gave the Native Treasury a rebate of 50 per cent. on collections, but this was increased to 75 per cent. in 1947, and the Treasury will also benefit from the fact that the Government has taken over the Barotse National School, which in 1946 accounted for £2,543 out of the total item of £3,493 spent on Education.

The figures show however how small is the scale of expenditure by the Native Treasury on social and economic services, and this is the more noticeable, since such provision as has been made by the Protectorate Government has left the Province very badly equipped with educational and health facilities. The most noteworthy of the general activities financed from the Native Treasury appears to be shown in regard to communications and the clearance of canals in the flood area of the Valley. Here the Native Authority has the benefit of the labour on which it is able to call by virtue of the Native Authority Order, referred to below, under which able bodied males can be required to give up to 60 days labour on "essential" works, these being defined by the Provincial Commissioner, who can declare by certificate any work as essential including communications and canals. This labour has to be paid at current rates.

THE USE OF THE RULE-MAKING POWERS

There exists in the Provincial Commissioner's Office a compilation of the Rules and Orders issued by the Barotseland Native Administration. This begins with Regulations, such as those relating to the emancipation of slaves, and the treatment to be accorded to ex-slaves, issued by Lewanika and his Council in 1906. There have been only a few Rules issued under Section 19 of the Ordinance 25 of 1936, the principal being that of 1946 requiring the regular attendance at school of children once enrolled on the register of an elementary school, a Rule which, as will afterwards be shown, is common form in Northern Rhodesia.

There are, however, a considerable number of Orders issued under Section 25 of the Ordinance, relating to a wide range of subjects, including the preparation of the Tax Register (1939), the prohibition of the formation of new villages without consent of a Silalo Induna (1936), the control of immigrants to the Barotse Plain (1936), the restriction of the movement of women from the Barotse Province (1946), compulsory service on essential works (1946), and various Orders regarding fishing, game, the use of forests and the like. The only Order bearing directly on native law and custom is that of 1946 prescribing penalties for adultery or the abduction of girls.

THE JUDICIAL ORGANIZATION IN BAROTSELAND

Turning to the judicial organization in Barotseland, reference has already been made to the fact that this comes under the provisions of a separate Ordinance, the Barotseland Native Courts Ordinance 26 of 1936, passed as the result of the Jurisdiction Agreement of the same year. While in general form this is similar to the Protectorate Native Courts Ordinance 10 of 1936,¹

¹ See page 85.

it contains the important variation to which reference has already been made, that the access of Administrative Officers to the proceedings of the Courts and their powers of review shall be limited to criminal cases.

The scale of jurisdiction of the Barotse Land Courts also varies from that of the Courts in the Protectorate. The Paramount's Court has unlimited civil jurisdiction, and criminal powers up to £50 fine, 6 months' imprisonment and 12 strokes. The special Court at Senanga has civil powers up to £60 and criminal powers up to £12 fine, 4 months' imprisonment and 10 strokes. The five "first class" Courts have civil powers up to £50, and criminal powers up to £10 fine, 3 months' imprisonment, and 10 strokes. The sixty-two "second class" Courts have civil powers up to £25, and criminal powers up to £5 fine, imprisonment for 1 month, or 6 strokes.

The Paramount's Court is composed of members of the Saa-Sikalo Kuta, and has original powers, but functions mainly as a Court of Appeal from the District Kutas. All members of the Saa-Sikalo are entitled to sit, but in an ordinary session only about ten attend. The Ngambela presides or in his absence the Natamoyo, and reports to the Paramount, who either confirms the decision or refers it back for further consideration. The appeal from these decisions goes to the Provincial Commissioner in criminal and to the High Court in civil cases.

The District Kutas constitute "first class" Courts. The Kuta Court exercises original jurisdiction in cases involving Indunas or in cases not lying within the powers of the Silalo Kutas referred to below. In its appellate capacity it receives appeals from the Silalo Kutas, and appeals from its own decisions lie to the Saa-Sikalo Kuta of the Paramount at headquarters. The 62 Courts holding "second class" powers are those of the Silalo Kutas. The appeal lies from these Courts to the District Kuta.

From the figures given in the Annual Report of 1947 it would appear that 5,220 cases of a civil nature (of which 4,016 were matrimonial) were dealt with by the Native Courts, and 4,259 criminal cases, of which 3,498 referred to breaches of Native Authority Orders, principally those referring to Health, Forestry and Agriculture. There are no figures available of the appeals heard by the Native Appeal Courts or the District Commissioners, but judging by information provided for 1946 these are normally very few. It will be noted that the Native Courts do not deal with cases arising under the Native Tax Ordinance.

GENERAL NOTE ON THE POSITION IN BAROTSELAND

Looking at conditions in Barotse Land as a whole, it is clear that, from the political aspect, the native administration is still in a stage of transition. The indigenous organization still has to be adjusted to provide for a fuller integration of the non-Lozi people, who at present have few representatives in positions higher than that of a Silalo President. We have still to see the result of the introduction into an aristocratic and conservative structure of a novel element in the form of elected members to the Katengo.

It is an advantage that Barotse Land has in the Paramount a Chief enjoying great traditional respect, and who has had experience as a Head of a District Kuta. From the executive point of view, the most interesting development is the nomination of members of the Lealui and District Kutas to charge of different departments of work. If the results have not so far been more

impressive, it is partly because there is at present a lack of men with the necessary education, and partly because the scale of finance available reduces the scope of their opportunities for acquiring experience. But the method is a development in indigenous systems of native administration which is already being copied in some other Provinces of the Protectorate, and of which the effect will be watched with interest in other territories.

SECTION III

WESTERN PROVINCE

GENERAL NOTE ON THE PROVINCE

THE Western Province has been greatly enlarged by administrative changes, the most recent of which, the absorption of the Kaonde-Lunda Province and Kawambwa and Fort Rosebery Districts, and the re-opening of the Solwezi District, took place in 1947. It now comprises in area one quarter of the area of the Protectorate, about one third of its African and the greater part of its European population. The Province is of somewhat awkward shape, since the nine western Districts are divided from the two eastern Districts (Fort Rosebery and Kawambwa) by the Katanga "Pedicule" of the Belgian Congo Territory, and the main link between the Provincial headquarters and these two Districts lies through the Pedicle.¹ For our present purpose major importance attaches to the fact that the western block of nine Districts includes four (Kitwe, Chingola, Luanshya and Mufulira) which are purely mining Districts, and in which accordingly the problems of native administration are of a special order.

The following figures of the African population in the Province are taken from the estimates of the 1946 Census. This Census, however, was made before the administrative changes of 1947 had taken place. There are no figures therefore specifically for the Solwezi District, as this was formerly part of the other Districts of the Province; the figures for the Balovale, Kasempa and Mwinilunga Districts are those of the former Kaonde-Lunda Province; and the Fort Rosebery and Kawambwa figures have been taken from the former Northern Province.

A. THE NON-MINING DISTRICTS

Districts	Population	Area in Square Miles	Density per Square Mile
Balovale	62,000	11,840	5.2
Kasempa	49,000	28,580	1.7
Mwinilunga ..	30,000	11,550	2.6
Ndola	43,000	9,330	4.6
Fort Rosebery ..	75,000	9,310	8.1
Kawambwa ..	74,000	7,060	10.5
Total	333,000	77,670	4.3

¹ For the difficulties caused to travellers through the Pedicle see page 106 of Proceedings of African Representative Council 1947.

B. THE MINING DISTRICTS

Districts	Population	Area in Square Miles	Density per Square Mile
Kitwe	30,000	410	73·2
Chingola	13,000	760	17·1
Luanshya	32,000	310	103·2
Mufulira	20,000	610	32·8
Total	95,000	2,090	45·5
Total for Western Province	428,000	79,760	5·4

It is only in a few instances that a Province presents a picture of large areas occupied by tribes who are homogeneous in origin or language. Balovale, which was till 1941 part of the Barotseland Province,¹ contains the greater part of the Lunda and Luvale tribes, estimated in 1934 as 82,044 and 68,943 respectively. The Kaonde people (estimated in 1934 at 37,952) are found mainly in Solwezi and Kasempa Districts; the greater part of the Lamba (22,309)² are in the Ndola and Kasempa Districts; the Ushi (28,958) comprise nearly half the population of Fort Rosebery, but this District contains also considerable numbers of the Mukulu (10,522), Ngumbu (24,116) and Chishinga tribes (22,604), though the latter are also largely represented in Kawambwa District.

Speaking generally these tribes fall into two of the main language groups referred to in Section I—namely, the Wemba-Lala-Lamba group, and the Lunda-Luba speaking group, but there is a considerable variety of local dialect. Generally speaking also, it is true to say that the observations made in Section I regarding the lack of cohesion and the weakness of indigenous organization which characterize the majority of the Northern Rhodesian tribes apply fully to those of the Western Province.

With the exception of the four mining Districts and parts of Mwinilunga and Ndola Districts, the greater part of the Province can be described as predominantly native country, in the sense that the proportion actually occupied or set aside for European mining or farming development is relatively small. Balovale District has brought with it from Barotseland the recognized status of a Native Reserve, and Kasempa District is all Native Trust land. Mwinilunga District has 73 square miles of alienated land and the Order in Council of October 1947 will have the result of setting aside 1,853 square miles as Crown land (though any considerable use of this for European farms seems doubtful) leaving 9,624 square miles as Native Trust land.

Ndola District and the four mining Districts have 704 square miles of alienated land and 3,990 square miles will be classed as Crown land, a considerable part of which will be Forest Reserve. The two existing Native Reserves in Ndola District (the Lamba-Lima and Swahili Reserves), amount to 5,780 square miles, and 4,811 will be classed as Native Trust land.³ The Fort Rosebery and Kawambwa Districts are both classed as Native Trust land.

¹ See Section II, page 91.

² For the Lamba tribe see *The Lambas of Northern Rhodesia*, G. M. Doke, London, 1931.

³ Land Commission Report, 1946, pages 7 and 33.

Thus there will be 777 square miles of alienated land and 5,843 square miles classed as Crown land, or together about 8.3 per cent. of the total area of 79,760 square miles.

Though most of the Districts in the Province have numerous rivers or streams and a rainfall which compares very favourably with that of some of the territories further north, the standards of native production are very low. As the figures given above will show, there is an unusually low density of population to the square mile in some of the Districts, as, for instance, Kasempa, Mwinilunga and Solwezi, and if there is anywhere any sign of congestion, it is only in the areas adjoining the mining Districts, and noticeably in the Lamba-Lima and Swahili Reserves of Ndola. There has been of recent years a considerable activity in the resettlement of the inhabitants of these Reserves on Native Trust land, some 8,000 having been resettled since 1943. The Ecological Survey¹ has shown, that in spite of the general prevalence of thick *brachystegia* bush, the soil is generally poor, and in the Kasempa, Solwezi, Mwinilunga and part of Fort Rosebery Districts this has compelled wide resort to a form of *chitemene* agriculture, always a sign of soil infertility. With the exception of a little maize, there are no cash crops, and native cattle are (largely owing to the prevalence of fly), remarkably few in number. If local estimates are to be trusted, a district of the size of Kawambwa contains only 200 head of cattle and Kasempa even less.

The proximity of the Copper Belt mines and towns has led to a considerable migration of able-bodied labour, which in the Annual Report of 1947 is estimated as amounting roughly to forty of fifty per cent. at any one time, though the actual numbers given elsewhere in the Report are only 36,822. This absence of able-bodied male labour is, however, of less importance in areas (such as Balovale) where cassava is the staple crop, than in the areas, already referred to, which practice the *chitemene* system of agriculture, and male labour is much more essential.

NATIVE AFFAIRS IN THE SEVEN NON-MINING DISTRICTS

It will be simplest to give here in tabular form the composition of the Native Authorities in the seven non-mining Districts. The facts given relate to the early part of 1948 and take no account of the changes being introduced in that year to which reference was made in Section I.²

The Solwezi District has no Superior Native Authorities, the seven Subordinate Native Authorities in the District being held to be subordinate to the Superior Native Authorities in the Kasempa, Mwinilunga and Ndola Districts in whose jurisdiction they were before the recent reconstitution of the Solwezi District.

As shown above, the Superior Native Authorities consist of a Chief and Tribal Council. It is, however, a feature of this system that the Chief who, with the Tribal Council, is Superior Native Authority, is also, so far as regards the area of his individual chiefdom, a Subordinate Native Authority, acting with the Council of that chiefdom. The Chiefs are hereditary in the sense that a successor is chosen by the traditional tribal authorities from the family of a

¹ The Soils, Vegetation and Agricultural Systems of North-Western Rhodesia, by C. G. Trapnell and J. N. Clothier, 1937 (for Balovale, Kasempa, Mwinilunga, Ndola and Solwezi Districts), The Soils, Vegetation and Agricultural Systems of North-Eastern Rhodesia, by C. G. Trapnell, 1943 (for Fort Rosebery and Kawambwa Districts).

² See page 84.

District	Superior Native Authorities	Subordinate Native Authorities
Balovale	Shinde and the Lunda Tribal Council	6 Chiefs and Council
	Ndungu and the Luvale Tribal Council	3 Chiefs and Council
	Chinyama Sikufele and the Manyinga Council	3 Chiefs and Council
Kasempa	Kasempa and the Kaonde Tribal Council	4 Chiefs and Council
Mwinilunga	Sailunga and the Lunda Tribal Council	5 Chiefs and Council
	Kanongesha and the Ndembo Tribal Council	5 Chiefs and Council
Ndola	Kawunda Chiwele and the Lamba Tribal Council	3 Chiefs and Council
	Ndubeni and the Lima Tribal Court	3 Chiefs and Council
Solwezi		7 Chiefs and Council
Fort Rosebery ..	Milambo and the Ushi Tribal Council, Mwewe and the Ngumbo and Kabende Tribal Council	18 Chiefs and Council
Kawambwa	Kasembe and the Lunda Tribal Council	3 Chiefs and Council
	Mununga and the Shila Tribal Council	2 Chiefs and Council
	Mushota and the Chishinga Tribal Council	5 Chiefs and Council

deceased Chief, though in some tribes succession follows the patrilineal and in others the matrilineal line. The new Chief succeeds to the name as well as the title of his predecessor. There does not appear to be any instance in which the Government has refused to recognize the choice of a successor by the traditional tribal authorities.

In view of the terms in which a Superior Native Authority is gazetted, it is of importance to note the character of the Tribal Council. The latter is not here an organized body, nor does it hold regular meetings. The Chief has Councillors, partly filling traditional offices and partly selected by him, of whom a certain number are paid from the Native Treasury as executive officers or Court Assessors. But the Tribal Council is on occasion attended also by others, such as subchiefs or headmen or prominent tribesmen, and in practice the extent to which the Chief acts independently of the Council varies with his own personality.

In one District, Mwinilunga, the position of the Chief as Superior Native Authority is affected by the fact that the tribesmen acknowledge a Chief in the Belgian Congo as their traditional superior. In Balovale also the Luvale tribe has been accustomed to look to a Chief now residing in Angola as their superior, and the position of the Chiefs now holding authority in the District has also been affected by the fact that they have only held their present position

since 1941, when the District was transferred from Barotseland. Generally speaking, it is only the Lunda Chiefs in the Kawambwa District who are said to show evidence of an active and progressive character. It is noticeable also that it is only in that District that an effort has been made to secure the assistance of educated Councillors; elsewhere they are mostly of a conservative and unprogressive type.

The relations of the Superior to the Subordinate Native Authorities do not afford the same evidence of a centralized system of administration as has been shown to exist in Barotseland. The authority of the Superior Native Authorities is evidenced chiefly in the making of Rules and Orders, and in the control of the Native Treasury, though in the majority of cases the Native Authorities are said to take little direct part in the preparation of Estimates or the management of the expenditure. In other respects, the Chiefs and Councils constituting the Subordinate Native Authorities have a large measure of independence. As will be shown below, the Superior Native Authority normally constitutes also a Court of Appeal.

The Chiefs who are Superior Native Authorities receive from their Native Treasuries salaries varying from £52 to £120; Chiefs who are Subordinate Native Authorities have salaries ranging from £12 to £65. Their paid Councillors receive pay ranging from £9 to £12. There is an exception in the case of Balovale where, following the Barotse practice, one Councillor in each Superior chiefdom is designated as Chief Minister, the pay of these posts varying from £21 to £36. The village headmen, who are often numerous (Fort Rosebery, for instance, having as many as 1,158) are unpaid.

THE NATIVE TREASURIES

Throughout these Districts, each Superior Native Authority has its own Treasury, and as a rule the Subordinate Native Authorities have sub-treasuries, though these are maintained mainly for accounting purposes. As already noted, the Native Authorities do not as yet take any considerable part in the control or management of the Treasuries; in only two Districts, indeed, it is stated that they are competent to share in the preparation of estimates. The same observation is true of their direct responsibility for the collection of taxes.

Official reports have more than once complained that the paucity of the funds available to the Native Treasuries has gravely affected both the interest taken by the Chiefs in this aspect of their work and their capacity to extend the local services rendered to the community. The financial position is summarized in the following figures, taken from the accounts of 1946 :

REVENUE

Number of Treasuries	Native Tax	Court Revenue	Other Recurring Income	Grants-in-Aid	Total
13	£ 8,207	£ 4,980	£ 2,466	£ 7,989	£ 23,642

EXPENDITURE

Adminis- tration	Education	Agriculture Veterinary	Communi- cations	Health	Total
£ 12,991	£ 2,201	£ 49	£ 1,258	£ 148	£ 16,647

The Poll Tax is levied at the rate of 6s. per head in five of the Districts, with a rate of 7s. 6d. in Fort Rosebery and part of Kawambwa, and 10s. in the greater part of Ndola. In 1947 the Native Treasuries received a rebate of 2s. per tax paid (increased to 3s. 6d. in 1948), with an additional 3 per cent. on collections made by the Native Authorities. The Grants-in-Aid are of two classes : (a) the sums provided by the Central Native Treasury Board from a lump grant voted by the Legislative Council for this purpose, which is calculated on a basis of 1s. 6d. per tax collected. The sum thus granted to the Districts in the Western province in 1946 was £5,671. (b) Grants made by the African Education Department towards the recurrent cost of Native Authority schools.

CONTRIBUTION TO THE PROVISIONS OF LOCAL SERVICES

As will be seen, the contribution which the Native Treasuries are able to make towards services such as Education or Health is noticeably small. There are very few Native Authority schools ; in 1948 Ndola had four and Kawambwa two, but Mwinilunga and Kasempa had only one, and Fort Rosebery none. It may be noted that the Native Authority schools in the Protectorate only justify that name in a restricted sense. The Native Authority pays for their construction, but it receives a grant in aid of half the amount from the Central Government. It pays for the cost of their maintenance, but the salaries of the teachers are paid by Government, and the management of the schools is under the supervision and control of the Education Department.

The Kaonde Native Authority in Kasempa District has shown its interest in this matter by making use in 1947 of its powers under Section 17 of the Native Authority Ordinance to impose a local rate of 1s. per taxable male for educational purposes. It should be noted also that most of the Native Treasuries maintain Education Attendance Officers, whose function it is to assist in the enforcement of the Rule or Order prescribing regularity of school attendance in the Mission and other schools, and though these persons are not themselves of any considerable status, their work is said to have had some effect on school attendance.

THE USE MADE OF THE RULE-MAKING POWERS

Up to recent years, the use by the Native Authorities of their power of subsidiary legislation under the Native Authority Ordinance took the form of Orders rather than Rules. This is best exemplified by the case of the Fort Rosebery District, where the Ushi-Ngumbo Superior Native Authority has a consolidated code of Rules and Orders. The principal Rule issued as such is that prescribing that pupils once enrolled in an elementary school shall observe a regular attendance up to Standard II or a total period of six years—a Rule which is found also in many other Districts of the Protectorate.

The list contains some twenty Orders of general application. One of these provides that all able bodied persons shall give up to 60 days labour on essential public works, which are defined as road and canal works, transport of food-stuffs and the like. It may be noted that a similar Order has been issued in Barotseland, and in a number of other Districts. Other Orders relate to a variety of subjects falling within the sphere of Native Authority activities, such as the plantation of gardens of a minimum size, control of tree cutting and grass burning, the reporting of disease or deaths, the maintenance of village paths, or the necessity for obtaining a Chief's permission before trans-

ferring residence to a new village. The only Orders affecting native law and custom which call for notice are those laying down a minimum age for betrothal or prescribing penalties for adultery. Orders somewhat similar to those of the Ushi-Ngumbo Authority have been issued in the Ndola District, with the addition of one regulating the movement of women into the Copperbelt towns, and another providing for the voluntary registration of marriages.

THE NATIVE COURTS

The organization of the Native Courts follows the same pattern as that of the Native Authorities. That is to say, the Superior Native Authorities normally act as Native Appeal Courts, and the Chiefs who are Subordinate Native Authorities hold Courts which usually have A powers but in a few cases higher powers. There is one exception to this procedure, namely, that in the Ndola District there is no Native Appeal Court, and appeals from the Courts with original powers go direct to the District Officer.

Taking Fort Rosebery District as an illustration, it has two Appellate Courts (that of the Ushi Tribal Council and the Ngumbo-Kabende Tribal Council), 15 Native Courts of class A, two of the B and one of the C class. In the Chiefs' Courts, the warrants are made out in the name of the Chief, it being understood that the actual composition and strength of the bench will be determined by local custom, as provided in Section 4 of the Native Courts Ordinance. In practice, the Chiefs holding A, B or C Courts sit with at least two Assessors, chosen by the Chief, these, as shown above, being paid a small salary from Native Treasury funds. The Native Appeal Courts as a rule have a larger number of Assessors. Thus the Ushi and Ngumbo-Kabende Courts in Fort Rosebery District have a quorum of six Assessors of who two must be Chiefs, but any Chief from whose Court the appeal lies is excluded. There is the same practice in most other Districts.

The statistics relating to the work of the Native Courts are not in complete form, but the following figures have been taken from such records as are available :

District	Criminal Cases	Civil Cases	Breaches of Native Authority Orders	Total
Balovale 1946 ..	662	1,486	206	2,354
Kasempa ..	—	—	—	—
Mwinilunga 1946	887	687	576	2,150
Solwezi	—	—	—	—
Ndola 1944 ..	1,862	1,244	800	3,906
Fort Rosebery 1946	812	660	406	1,878
Kawambwa 1942	872	637	374	1,883

There are no figures available of the appeals heard by the Native Appeal Courts or the District Commissioners, though the Report of 1947 mentions that in the rural areas the appeals were few in number. It is, however, unusually difficult in this area to assess the value of the work done by the Native Courts,

especially in view of the difficulty of inspection created by the great distances involved and the lack of communications.

GENERAL NOTE ON THE SEVEN NON-MINING DISTRICTS

Looking at the operation of the Native Authority system in the seven Districts dealt with above, it is clear that definite progress has been made during recent years in achieving a more regular formation, headed by the Superior Native Authority. But though the latter now has a recognized position as a Court of Appeal, it has in executive matters no definite control over the individual Chiefs, and the part taken in administration by the latter depends largely on their own competence and activity. There are a considerable number who are illiterate, or barely literate, and it is only on rare occasions that educated or progressive "commoners" have been introduced as Councillors or Assessors.

In a number of areas the tribal organization is noticeably weak, and the Chiefs cannot rely on the instinctive support normally given to Chiefs of areas where there is a stronger tribal cohesion or respect for traditional authority. Even in a matter such as the collection of tax, the part taken by the Chiefs is still described in some Districts as having the character of an experiment, and save in a few cases, the direct responsibility for collection still rests with the District Officer. It is generally agreed that the clerks available to the Native Authorities are of a very low standard, and that this reduces their competence both in tax collection, and also in the procedure of the Courts.

The Native Authorities are perhaps at their weakest in dealing with matters relating to the Native Treasuries. It is true that the sums available for expenditure are small; in the 1946 accounts the total incomes of all the Treasuries, including grants in aid amounting to £7,989, was only £23,642, and the sums to the credit of most of the Treasuries were too small to create in the minds of the Native Authorities an interest in the provision and extension of local services. But their lack of interest in this matter also shows the low level of education among them and the absence of competent Advisers in the Councils. In this Province, as in other parts of the Protectorate, the Administration has made of recent years a noteworthy advance in improving the form taken in organization of the Native Authority system, but there has not been a corresponding advance in the character displayed by the Native Authorities or in their competence as agencies of local government.

THE FOUR MINING DISTRICTS

Turning now to the circumstances of the separate group of four mining Districts (Kitwe, Chingola, Luanshya and Mufulira) it will have been noted that though they only comprise 2.5 per cent. of the area of the Province, they contain a fourth of its population. Of the total number of 95,000, however, four-fifths (including men, women and children) live in the compounds of the four Mines, namely N'kana (Kitwe District) N'changa (Chingola District), Roan Antelope (Luanshya District), and Mufulira in the District of the same name. The remainder are in the Township Locations, or in the African Townships to which further reference will be found in Section VIII, namely Twapia (Ndola District), Kasombe (Chingola), Chipuluma (Kitwe), Fasenge (Luanshya), and Kansuswa (Mufulira).

There are no Native Trust lands in the four mining Districts, and all land,

with the exception of the area already alienated for mines or a few European farms, is classed as Crown land. There are no native villages. The labour in the mines and the inhabitants in the Locations and Townships come from a great variety of tribes in the Protectorate, together with small numbers from Nyasaland, Tanganyika, Angola and the Belgian Congo. In the circumstances it has not been found appropriate to utilize the services of local Native Authorities, traditional or other, as agencies of administration. Native affairs (apart from matters directly relating to the employment of labour in the mines or elsewhere) are controlled directly by the District Officers, with the aid of the various Advisory Bodies or specially constituted Urban Courts to which fuller reference will subsequently be made in Section VIII, dealing with the Urban population.

SECTION IV

SOUTHERN PROVINCE

LIKE the Western Province, the Southern Province has been the subject of a number of administrative changes, the latest of which was the restoration in 1946 of the Gwembe District, which had been abolished in 1921. The following figures regarding the area and African population of the Districts as now constituted, are taken from the estimates of the 1946 Census.

District	Area in Square Miles	Population	Density per Square Mile
Namwala	7,270	21,000	2.9
Livingstone, including Kalomo sub-district	11,900	27,000	2.3
Gwembe	5,250	32,000	6.1
Mazabuka	7,600	84,000	11.1
Total	32,020	164,000	5.1

Kalomo sub-district, formerly administered as part of Mazabuka District, has since 1946 been administered as part of Livingstone District.

Unlike the Western Province, the Southern has no important mining or industrial centres, and though the Livingstone area attracts a certain amount of labour to industries such as the Saw Mills and Rhodesian Wood Industries and the Railway workshops, the actual labour force employed does not seem to exceed 8,000 in all. From the standpoint of agricultural production, the physical circumstances of the Province have led to a marked difference in the relative importance of the different Districts.

Namwala in the west of the Province partakes of the same character as the eastern area of Barotseland, and practically the whole of its small population is concentrated in the Ila-Tonga Reserve. Though Livingstone (with Kalomo) has the benefit of the Railway line, the soil does not offer the same advantages as in Mazabuka, which has a larger production of maize than any District in the territory and a greater density of population. Gwembe District, running down to the junction of the Kafue and the Zambezi Rivers on the east of the Province, is at present of minor agricultural importance, and has indeed some past record of famine, though some of its area is said to be suitable for tobacco. This District will doubtless grow in importance if the Kariba Gorge scheme proves to be feasible or the iron ore deposits in the District can be profitably developed.

With the exception of the production of maize in the Mazabuka District, the chief native resources are in cattle, though here progress has been retarded among other things by the prevalence of fly. Though infestation is not serious in Mazabuka, it is said to be complete in the Kalomo sub-district of Livingstone and in Namwala. The number of cattle are estimated at 151,000 in

Mazabuka (where there is already a serious problem of over-grazing and erosion), 40,000 in Namwala and 16,000 in Livingstone District, though the native cattle are everywhere of low quality and have a poor market.

The existence of the Railway has led to a considerable demand for land for European occupation in Livingstone and even to a greater extent in the Mazabuka District, where, as already explained, the soil conditions are more favourable. Namwala District, with the exception of one ranch of about 18 square miles, is all Native Trust or Native Reserve land, the large Ila-Tonga Reserve here amounting to 5,510 square miles. Livingstone District, excluding the Kalomo Sub-District, has 319 square miles of alienated land, and though the area is not considered suitable for any large expansion of European farming, 221 square miles will be reserved as Crown land for possible alienation. There are here three Native Reserves aggregating 4,165 square miles, into which the natives were at one time moved. The land of the Reserves is, however, poor and lacking in water facilities, and 1,595 square miles are now being set aside as Native Trust Land, into which natives are being re-settled.¹ The Kalomo sub-district of Livingstone has a small number of European farms, but 4,205 square miles are now classed as Native Reserves (the Tonga-Choma and part of the Ila-Tonga Reserves) or as Native Trust Land.

All Gwembe District is now classed as Native Trust Land. In the Mazabuka District there are about 210 farm areas, and this District will now contain 2,487 square miles of alienated and Crown land, the rest being classed as Native Reserves and Native Trust Land. It appears that in this District natives were in a number of cases originally moved into the Native Reserves, but were subsequently allowed to move back into parts of what has now been classified as Native Trust Land. There is still a considerable programme of re-settlement to be undertaken.

THE TRIBAL STRUCTURE

Practically all the tribes in the Province are in the Ila-Tonga-speaking group referred to in Section I. The largest tribe, the Tonga, whose number was estimated at 82,586 in 1934,² are spread through all the Districts. Namwala and Mazabuka Districts contain the majority of the Ila tribe (18,653), the rest being in the Mumbwa District of the Central Province. The We (19,799 in 1934) are mainly in Mazabuka and the south-west of the Province. The major part of the Toka (9,458) are in Livingstone and Kalomo, the rest being in the Barotse Province. The Leya (5,903) are also found chiefly in Livingstone and Kalomo; they are closely allied to the Tonga.

Of these tribes, the Tonga (with whom the Toka are closely associated and are possibly identical) appear to have been originally a collection of several tribes. They have been characterized as having been in the past "a poor frightened people, fleeing from the raiding Lozi and Ndebele to scrape a few plots on the stony escarpment."³ It is generally agreed that their tribal organization is weak, and they have no strong tradition of chiefship. The Ila differ from the Tonga in dialect, but are otherwise nearly connected with them,⁴ as are also the small body of Subia in Livingstone District. There

¹ Land Commission Report, 1946, pages 61 to 66.

² Native Tribes of Northern Rhodesia, J. Moffat Thompson, 1934.

³ Report of Northern Rhodesia Land Tenure Committee, Part II, 1946.

⁴ The Ila-speaking Peoples of Northern Rhodesia, Smith and Dale, 1920, page xxvii.

were in Namwala no recognized Ila chiefs at the outset of the British administration, and some twenty of the headmen were made Chiefs, this number being subsequently reduced to thirteen. The situation was much the same in the Livingstone District and Kalomo sub-district. In Mazabuka the Tonga Chiefs, though having a somewhat similar origin, appear to have subsequently acquired a stronger position, but here also the family rather than the tribe still constitutes the most stable unit. In Gwembe the chiefdoms have been described as "a modern creation."

In general, none of the tribes in the Province are marked by a strong tribal organization, and in some it is notably weak. It must be remembered that the greater part of the Province was for a considerable period of time controlled by the Lozi, a fact which may in some measure account for the relatively weak authority exercised by the Chiefs and the tribal organizations.

THE ORGANIZATION OF NATIVE AUTHORITY

The organization of the Native Authority system is shown in the table following. As in the case of the Western Province, the facts given refer to the period preceding the re-organization to which effect was being given in 1948.¹

District	Superior Native Authorities	Subordinate Native Authorities
Namwala	Ila Tribal Council	13 Chiefs and Council
Livingstone, including Kalomo	Toka Leya Tribal Council	10 Chiefs and Council
Gwembe	Valley Tonga Tribal Council	7 Chiefs and Council
Mazabuka	Plateau Tonga Tribal Council	16 Chiefs and Council

In this Province, therefore, there is no instance of a Chief and his Council being recognized as Superior Native Authority. The Tribal Councils shown in the statement above consist of all the Chiefs who are Subordinate Native Authorities, together with their paid "Councillors." The Ila Tribal Council in Namwala and the Toka Leya Tribal Council in Livingstone Districts are marked by the existence of local jealousies, and have no permanent President; they elect a Chairman by secret ballot at each meeting. The Valley Tonga Tribal Council in Gwembe District has a Chief as President who has been elected as "first in importance among seven practically co-equal Chiefs." In the Plateau Tonga Tribal Council in Mazabuka, one Chief (Monze) usually presides, but though accepted as a "Senior Chief" he does not seem to be formally recognized as President. It is of interest to note that the Ila Tribal Council in Namwala District has accepted a suggestion for adding to its membership five persons not holding a status of Councillor, who are to be chosen as representing the more advanced Africans and also certain sectional interests.

The Tribal Councils exist mainly for the purpose of making Rules and Orders under the Native Authority Ordinance, and they have no executive control over Chiefs in their individual capacity. Each Tribal Council has a Native Treasury, and, as shown below, it also constitutes a Native Court.

The Chiefs who, with their Councils, are the Subordinate Native Authorities, form the actual agency of local native administration. Reference has

¹ Pages 84-85

already been made to the absence of an inherited tradition in most of these chiefships, and it is frequent to meet with the observation that they owe their position to Government support, being indeed regarded largely in the light of Government officials. In present practice the succession to the chiefship is treated as hereditary, in so far that selection is made by a traditional procedure from within the family of a deceased Chief. Among the Ila of Namwala the selection was at one time from a much wider field, but it is now restricted to the family. Tribal custom in this case follows the patrilineal line.

In Livingstone and Gwembe Districts the matrilineal system prevails, though it seems that in the former District the influence of Lozi control in the past has led to a tendency to change to the patrilineal system. The matrilineal system is followed by the Tonga in Mazabuka, the Chief being chosen by the Elders (Bashimukowa) of the Chief's family. A predecessor of the present senior Tonga Chief (Monze) appears to have achieved a special position early in the eighteenth century by virtue of his expertise in the ritual of rainmaking, and this tradition has survived in the authority now accorded to his successors. The Government appears to intervene in the selection of a Chief only in the event of a conflict arising between partisans of different candidates.

The Chiefs received in 1947 a salary which everywhere began at £24 a year and ranged up to £42 in Namwala and Gwembe, £56 in Livingstone, and £110 in Mazabuka, and in the last District Chief Monze received also as "Senior Chief" an allowance of £30 in addition to his own salary of £82. The range of the salaries is therefore low, and it is obvious that in most cases it must be supplemented from personal resources. The Namwala Chiefs, for example, have built up large herds of cattle, which they hold in their own right. Out of the 46 Chiefs, only nine have any measure of literacy.

THE CHIEF'S COUNCILS

As in many other cases, the Councils of the Chiefs are not formally constituted. As a general rule each Chief has two paid "Councillors," who may act also as judicial Assessors. Thus there are in Namwala District altogether 37 paid Councillors, in Livingstone (with Kalomo) 22, in Gwembe 14, in Mazabuka 32. These are normally chosen in each chiefdom by the Chief, though in some Districts, as for instance in Namwala and Livingstone, the choice is stated to be subject to confirmation by the District Officer.

For the most part the Councillors are holders of traditional posts or are village headmen, but recently efforts have been made by some Administrative Officers to secure the appointment of intelligent "commoners" as Councillors. Thus in Livingstone the Councillors have since last year been selected at a meeting of headmen, though it does not appear that those so chosen comprise any educated element. This movement, and the attempt to secure the appointment of more progressive "commoners" to the Ila Tribal Council in Namwala, to which reference has been made above, is the result of a direction received from Government in 1945,¹ though it is doubtful whether the policy has been either appreciated or accepted by local opinion. At present only a small proportion of the paid Councillors appear to have any measure of education. Their salary from the Native Treasury funds normally ranges from £9 to £12 a year, a sum which is clearly inadequate in modern conditions to attract men of education or personal standing.

¹ Chief Secretary's District Circular, No. 5 of 1945.

The paid Councillors are, of course, only a nucleus of the Chief's Council, which is attended by a varying number of headmen and other tribesmen, being in fact usually of the nature of a tribal gathering. Meetings are irregular, procedure is informal, and among the Tonga at all events discussion is said to be often disorderly. The authority which a Chief exercises in this body varies with his own personality.

It is said that in Namwala the acquisition of some degree of wealth by certain of the Chiefs has tended to make them peremptory and autocratic. Various opinions have been expressed regarding the position of Chiefs elsewhere, but there remains a general impression that with one or two outstanding exceptions they lack personal initiative and sense of leadership. It is noticeable that though the collection of tax is now regarded as a function of the Subordinate Native Authorities, at all events in a number of Chiefs' areas, the collection is actually made by a Treasury clerk, who is technically a functionary of the Superior Native Authority but acts under the direct orders of the District Officer. It is only rarely that the Subordinate Native Authority, as such, takes a direct share in the process of tax collection.

THE NATIVE TREASURIES

As shown above, the Native Treasury, of which there is now one for each District, is a function of the Superior Native Authority, that is, of the Tribal Council. It is natural to find a considerable diversity in the share taken by the members of the Tribal Councils in the working of their Treasuries. In Namwala the members debate the Estimates keenly, but do not understand finance—a common enough experience elsewhere. Livingstone District has one Chief who is able to take a personal part in the working of the Treasury. There is nowhere any separate Finance Committee and generally speaking, the preparation of the Estimates and the conduct of the Treasury remains a function of the District Officer.

The following figures, taken from the accounts of 1946, will show the nature of the resources available :—

REVENUE

Number of Treasuries	Native Tax	Court Revenue	Other Recurring Income	Grants-in-Aid	Total
	£	£	£	£	£
4	4,342	2,950	1,498	3,879	12,669

EXPENDITURE

Administration	Education	Agriculture Veterinary	Communications	Health	Total
£	£	£	£	£	£
6,743	1,277	786	710	2	9,518

The detailed figures for the Districts are perhaps more striking than the Provincial totals; the Valley Tonga Treasury, for instance, had a revenue of

only £1,591 and the Toka-Leya Treasury only £1,090. The Native Tax is 10s. per head in Namwala (save in three areas, where it is 7s. 6d.), Livingstone and Mazabuka, and 7s. 6d. in Gwembe. The rebate to the Native Treasury, which was at the rate of 2s. per tax until 1947, was raised to 3s. 6d. per tax in 1948. The sum allotted to the Province in 1946 by the Central Treasury Board was £1,360, the rest of the Grants in aid being made up of allowances for salaries in schools.

The contribution made to local services in most of the Districts of the Province is on a very low scale. Namwala stands out as having five Native Authority schools, which have recently been taken over from the Methodist Mission, and the Native Authority is contemplating the addition of another school, but Livingstone and Mazabuka District have each only one Native Authority school, and Gwembe has none. As explained in dealing with the Western Province,¹ the part taken by the Native Authorities in the financial provision made for these schools and in their management is relatively small, and the chief value of the schools is that they supplement or provide an alternative to the system of Mission schools. The Native Authorities, however, maintain in each District a small number of School Attendance Officers, and the Tribal Council in Mazabuka has lately imposed a Local rate of 1s. per adult as an education cess. The Ila Council in Namwala was in 1948 contemplating a similar step.

There are no Native Authority dispensaries, but three of the Districts have itinerant medical orderlies. The Native Authorities do not maintain markets, but in Gwembe District they perform a useful service by the maintenance of Communal Granaries.

THE USE OF THE POWER OF SUBSIDIARY LEGISLATION

As has been explained, the use of the power for making Rules now rests in the hands of the Superior Native Authorities. As in many other areas there has not until recently been any clear distinction drawn between the Rules and Orders issued under the Native Authority Ordinance.² The Namwala Authority has, for example, only just begun to consider the preparation of Rules regarding the control of fishing, a matter in which the Ila Tribal Council is much interested, but there have been in this District a considerable number of Orders of a type similar to those noted in Section III regarding the Western Province. There is an Order of special interest relating to mixed tribal marriages and another relating to the return of dowry on divorce. In Livingstone District, Rules are now in preparation, at the instance of the District Officer, regarding the Registration of Marriages, the provision for regular attendance at schools, and the constitution of villages. The Gwembe Native Authorities have passed Orders prescribing the building and maintenance of Communal Granaries, and also on a variety of subjects such as the immigration of "stranger" natives, the formation of new villages, the movement of women to urban areas, regularity of attendance at school, the control of grass fires, water sources and the like. A Rule is in preparation for the voluntary registration of marriages.

¹ Page 105.

² See on this point paragraph 4 of the Chief Secretary's Circular 5 of 1945 quoted above, and also Circulars 36 of 1945 and 4 of 1946 laying down the procedure for confirmation of Rules.

There is a record of only two Rules in Mazabuka District, one relating to regular attendance at school, and the other providing for the voluntary registration of marriages. There is, however, a considerable body of Orders, the most important of which regulates the breaking up of new land and prescribes measures such as contour ploughing or the provision of grass strips, for the prevention of erosion, a matter which is, as has already been noted, of special importance in this District owing to the extent of soil deterioration.¹ It would seem, however, that this Order has been passed under pressure from Administrative Officers, and that the Native Authorities have shown no readiness to co-operate in its enforcement.

THE NATIVE COURTS

In the judicial organization, the Tribal Councils have a dual position, as they constitute C Courts with extended powers for dealing with cases concerning Chiefs or similar issues, and also constitute Appellate Courts. The bench of these Courts in their original capacity is normally five Chiefs, of whom one may be represented by a Councillor, but when sitting as an Appeal Court the bench is in some cases 10, of whom five must be Chiefs, and in some cases five.

Except in Livingstone District, each of the Chiefs who are Subordinate Native Authorities has a B Court; in Livingstone District they have nine C Courts and two B Courts. There is in addition an Urban Court in Livingstone, to which reference will be made in Section VIII, dealing with the conditions of the Urban Native. In the Chiefs' Courts the warrant runs in the name of the Chief, not in that of the Chief and Council, and the Chief sits with assessors, normally two in number, but in some cases three. These are selected by the Chief, but as a rule their names are reported to the District Officer; they are usually, but not necessarily, paid Councillors. The movement to introduce educated or progressive commoners as paid Councillors may in time affect the composition of the benches of these Courts.

There is a difficulty in giving the statistics relating to the work of the Native Courts, as no complete figures are available. The following will, however, serve to illustrate the scope of their work in the Province:—

District	Criminal Cases	Civil Cases	Breaches of Native Authority	Total
Namwala	No figures available	—	—	—
Livingstone (1946) and Kalomo sub-district (1943)	477	869	182	1,528
Gwembe (1943)	268	92	225	585
Mazabuka (1946)	680	998	296	1,974

The Livingstone figures include the cases from the Urban Court referred to in Section VIII. The figures for appeals from other Courts than the Livingstone Urban Court are not available.

¹ See page 113.

The justice administered by the Courts has been described as "rough and ready, but generally acceptable." It is obvious, however, that there have been difficulties in the inspection of the work of many of the rural Courts. Court clerical staff is often of poor standard and the records are very summary. Where they are kept in other than the prevailing vernacular languages there is a special difficulty, since very few Administrative Officers are sufficiently acquainted with some of the dialects.

SECTION V

CENTRAL PROVINCE

THE following figures of the area and African population of this Province are taken from the estimates of the 1946 Census:—

District	Area in Square Miles	Population	Density per Square Mile
Mumbwa	8,030	26,000	3·2
Lusaka	7,650	34,000	4·4
Broken Hill	9,870	36,000	3·6
Mkushi	9,480	36,000	3·8
Serenje	9,200	37,000	4
Total	44,230	169,000	3·8

The figures given above refer to rural populations only. In addition there are about 21,000 in Broken Hill town, 16,000 in Lusaka town, and 13,000 on farms.

The Feira sub-district of Lusaka district, a small area with some 15,000 inhabitants, was administered as a separate District from 1948. This measure has, however, been taken to meet the situation created by an outbreak of Sleeping Sickness, and it is not clear whether it is intended to be permanent.

Like the Western and Southern Provinces, the Central Province consists largely of what may be described as purely native areas, but like those Provinces, it has also a considerable extent of alienated lands. Serenje District consists entirely of Native Reserves or Native Trust Lands, but the existence of the zinc, vanadium and lead mine at Broken Hill, and the fact that the Railway Line serves certain areas of superior soil in the Broken Hill and Lusaka Districts has led to the existence of large blocks of alienated land.

Taking the Districts shown in the above statement in detail, Mumbwa has 834 square miles of alienated land, though a large part of this, and notably the "Big Concession" of the South African Townships Mining and Finance Corporation, is very little occupied and is of doubtful value for European farming. As the result of the Order in Council of 1947 only 26 square miles will now be reserved in this District as Crown Land, the rest (7,190 square miles) being classed as Native Reserve and Native Trust Land. There has in this case been no marked congestion in the Native Reserves. Lusaka District has 1,198 square miles of alienated land, though it may be noted that of the 265 farms alienated to Europeans, a considerable number were still unoccupied in 1948. An additional 436 square miles will be now reserved as Crown Land, leaving 6,016 square miles as Native Reserve or Native Trust Land. In one of the Native Reserves of this District, the Soli-wa-Manyika Reserve, there has been marked congestion, and a scheme is now in progress for the resettlement of the inhabitants in Native Trust Lands.

Broken Hill District has 431 square miles of alienated land, most of which is now profitably occupied by European farms, and 1,088 square miles will be reserved as Crown Land, leaving 8,351 square miles of Native Reserve or Native Trust Land. Much of the latter is, however, of little value, being occupied by the Lukanga Swamp.

Mkushi District has 142 square miles of alienated land, and 750 square miles will now be reserved as Crown Land (mainly, it appears, in view of its ranching possibilities) leaving 8,588 square miles of Native Reserves or Native Trust Land. One of the three Native Reserves in this District (the South Swaka Reserve) had proved to be entirely inadequate for its population, and even before the decision embodied in the Order in Council of 1947 the position was so serious that it was necessary to allow the inhabitants to move into what was then classed as Crown Land. Taking the Province as a whole, it will contain approximately 2,605 square miles of alienated land, 2,300 square miles of Crown Land, and 39,325 square miles of Native Reserve or Native Trust Land.

The existence of the Broken Hill Mine and the Township of Lusaka has not caused the same movement of Africans to urban or industrial centres as in the Copperbelt.¹ The Broken Hill Mine and Township, with a total population of 21,000, have an employed force of only about 6,600, and Lusaka is now estimated to have a total African population of only 16,000. As shown above, the number of Africans on the farms is estimated at 13,000. On the other hand, the relatively low standard of purely native production in the Province is illustrated by the statement made in the Annual Report on African Affairs for 1947, that the proportion of able-bodied males who are absent from the villages at any one time is seldom less than 50 per cent., and in some cases amounts to 60 per cent. Though some of the Districts (as, for instance, Mkushi and Serenje) are comparatively well watered, much of the soil in the Native Reserves and Trust Lands is of very poor quality, and even allowing for the indifferent methods of cultivation pursued locally (including the use of the *chitemene* system in the denser bush areas), the production of native lands is markedly poor.² The major crop is kaffir corn and it is only in Mumbwa and Lusaka Districts that there is normally any surplus production of marketable maize.

It is noticeable again that there are no large numbers of native owned cattle; Serenje, for instance, is said to have only 1,000 head, Mkushi 4,000, and Lusaka 7,100, though there are more in Broken Hill (23,000) and Mumbwa (25,000). The poor pastoral development is partly due to the prevalence of fly, for infestation is heavy, though in some districts it is local. The Feira subdivision of Lusaka is, as has already been shown, heavily infested, and there has been an outbreak of Sleeping Sickness. About three-quarters of Mumbwa District is infected and a part of Broken Hill; in Serenje the centre is free, but the northern and southern parts of the District are strongly infested.

THE TRIBAL DISTRIBUTION

There is a heterogeneous collection of tribes in the Province, and the variety of dialects creates a serious difficulty in administration. In the southern part of the Province the largest tribe is that of the Lenje (40,481 in 1934) who

¹ Section III page 110.

² See Land Commission Report, 1947, page 18.

predominate in Broken Hill, and are also found in the Lusaka District. They are believed to have come into the Protectorate via the Congo from the north. They, with the Soli (13,028) and Sala (6,961), inhabiting roughly the same area, belong to the Tonga-Ila-speaking group referred to in Section I. In the more northern part of the Province (Serenje and north Mkushi) the largest tribe is the Lala (41,432), whose southern migration into what appears to have been an uninhabited area began about a century ago, and is still going on. They belong to the Wemba-Lala-Lamba speaking group, and are allied to the Lamba and Swaka, who are divided between this and the Western Province.

There is nowhere any evidence of strong tribal organization, for the tribes suffered in the past from the effects of the Slave Trade and from a long series of Angoni raids from the east. There has been much intermixture, and, as one observer has remarked, many of the tribes in this area "are still in the melting pot." The effect is perhaps seen most prominently in the efforts, seldom very successful, which Native Authorities have made to keep a hold on their people by curtailing the formation of new villages.

THE COMPOSITION OF THE NATIVE AUTHORITIES

The formation of the Native Authority system was as follows up to 1948.¹

District	Superior Native Authorities	Subordinate Native Authorities
Mumbwa	Shakumbila and the Sala Tribal Council	Nil
	The Kaonde-Ila Tribal Council	7 Chiefs and Council
Lusaka	The Soli Tribal Council	3 Chiefs and Council
	Mburuma and Senga-Chikunda Tribal Council	3 Chiefs and Council
Broken Hill	Lenje Tribal Council	9 Chiefs and Council
	Council of Tenants	Nil
Mkushi	Mhoroma, Mukonchi and Chembe and Tribal Council	14 Chiefs and Council
Serenje	Muchinda and the Lala Tribal Council	8 Chiefs and Council

The constitution of the Superior Native Authorities does not in this Province follow a uniform pattern. In Mumbwa District it represents the result of a drastic reorganization made in 1947, involving the dismissal on various grounds of a number of Sala Chiefs, leaving the Chief Shakumbila and the Sala Tribal Council the authority in the Sala tribal area, with no Subordinate Native Authorities. The Kaonde-Ila Tribal Council represents a union of the seven Kaonde, Ila and Mbwela Chiefs who are Subordinate Native Authorities. In Lusaka District the existing organization is also the result of a radical revision made in 1945 which involved the abolition of a number of Native Authorities. The Soli Tribal Council is a union of three Chiefs claiming equal authority. The Senga-Chikunda Tribal Council has jurisdiction in the Feira

¹ For the reorganization being carried out in 1948 see pages 84-85.

area which will now be administered, as shown above, as a separate District. These two bodies do not unite for any purpose.

In Broken Hill District the Lenje Tribal Council is a union of nine Chiefs; the small Council of Tenants is designed to provide for the tenants on the five-acre plots outside the Broken Hill Township to which reference will be found in Section X.¹ The Council of Tenants, which will have its own Treasury, the Mukobeko Native Treasury, was in 1948 only just starting to function.

The formation of the Superior Native Authority in Mkushi District is the result of a reorganization carried out in 1946. In that year the three Native Authorities representing the Lala, Swaka and Luano tribes, being the senior Chief in each tribe, were amalgamated into a Superior Native Authority. The Superior Native Authority in Serenje District consists of eight Lala Chiefs, with one, Muchinda, as Senior Chief. It may be remarked that there exists a movement in favour of recognizing this Chief, who represents the Nyendwa clan, to which the Lala Chiefs both in this and the Mkushi District belong, as Paramount of the whole Lala area.

As institutions, the Superior Native Authorities have as yet a largely artificial character. What are termed the Tribal Councils are in practice meetings of the Chiefs and their paid Councillors, though other persons, such as prominent headmen, also attend. But these meetings normally take place only two or three times a year, and there are often local differences which prevent any common action being taken by the Chiefs. Though in some cases a Senior Chief is recognized as chairman, it is noticeable that in the Kaonde-Ila Tribal Council the existence of strong local jealousies has made it necessary for the District Officer to preside. The meetings of the Superior Native Authorities are undoubtedly of value to Administrative Officers as a means of consulting or informing local opinion, but otherwise their functions are in practice limited to the passing of Rules or Orders of general application, and these, as will be shown below, have in most cases been initiated by Government officers.

Each Superior Native Authority has a Native Treasury and reference will subsequently be made to the share which the members take in its operation. As elsewhere, these bodies constitute Appeal Courts, or in some cases Courts of original jurisdiction, and it is probable that from their own standpoint the discharge of their judicial functions is the chief justification for their existence as Superior Native Authorities.

The real agencies of administration thus consist of 45 Chiefs and their Councils. As elsewhere, the Councils of these Chiefs have no formal constitution; they are informal meetings with the Chief and his paid Councillors as a permanent element, but are attended also by headmen or such other persons of standing as desire to take part in the proceedings. The paid Councillors, who also act as Court Assessors, vary in number in different chiefdoms. Thus in Broken Hill District two of the Chiefs have five Councillors each, others have three or two. In Serenje District the number per Chief varies from two to four. The Sala Chief in Mumbwa has five paid Councillors, of whom one is a senior Councillor with a special rate of salary.

All the Chiefs have hereditary status, and custom everywhere, except among the Chikunda in the Feira sub-division of Lusaka, follows the matrilineal line of succession. It will be appreciated that this system often allows a

¹ Page 157.

wide field for selection among candidates, so that the choice of a successor (in which the Government hardly ever intervenes) does actually constitute a process of selection. It is of some interest to note that in these Districts, as in some other instances already noted, attempts have been made by Chiefs to secure the adoption of the patrilineal system, in order to confine the succession to their own sons.

The salary of the Chiefs borne on the funds of the Native Treasury ranged in 1947 from £24 to £48 in Mumbwa, £30 to £84 in Lusaka, £31 to £90 in Broken Hill, £24 to £78 in Mkushi, and £24 to £66 in Serenje. The remuneration is therefore very seldom adequate to enable a Chief to maintain the position expected of him.

The Councillors are normally headmen, chosen by the Chiefs, though generally after some consultation with the other headmen. There does not appear to be any instance of any deliberate attempt to introduce educated or progressive Africans as paid Councillors, and the rate of pay, normally £12 to £24 (with a special rate of £32 to the "Senior Councillor" in the Sala chiefdom) is clearly inadequate for this purpose. The headmen are unpaid, and are numerous; there are stated to be over 1,000 in Broken Hill and 700 in Mkushi District. The post of headman is normally hereditary, in the sense that a new headman is usually a senior member of the most important family in the village, and it is only rarely that a Chief refuses to confirm the selection of the villagers. There are some instances in which he is said to appoint members of his family, but these occur mainly in new and not old established villages.

In this Province, the Chiefs, with one prominent exception in Serenje, seem to command little authority, and many are described as entirely wanting both in personality and performance. Only a few are literate; there are none in Broken Hill and Mkushi Districts, and only one in Lusaka, though there is a higher proportion of literacy in Mumbwa and Serenje. It is common to meet the observation that the Chiefs are unduly dependent on the views of the most conservative and less progressive members of their Councils. In all Districts the largest proportion of the tax collection is nominally carried out by the Native Authorities but actually this is carried out by Native Treasury clerks, acting under the direction of the District Officer, and it would seem that the Chiefs take little personal responsibility in the matter.

THE NATIVE TREASURIES

Each Superior Native Authority has a Native Treasury, but so far its connection with the operations of the Treasury has for the most part been nominal. Only in the case of the Head Chief and some of the Chiefs in the Lala Tribal Council of Serenje District is there any evidence that the Chiefs or Councillors take any interest in the preparation of the Estimates. There is normally little or no discussion on the subject, and District Officers have more than once observed that the Chiefs are not competent to understand the figures involved. There is nowhere a Finance Committee for Treasury purposes. As was observed by the Provincial Commissioner in the Annual Report for 1947, there is in this Province a regrettable lack of any financial sense or experience.

The revenues of the Native Treasuries are somewhat less even than those available in the Southern Province.

REVENUE

Number of Treasuries	Native Tax	Court Revenue	Other Recurring Income	Grants-in-Aid	Total
7	£ 3,859	£ 1,946	£ 1,658	£ 3,690	£ 11,153

EXPENDITURE

Adminis- tration	Education	Agriculture Veterinary	Communi- cations	Health	Total
£ 6,912	£ 1,672	£ 239	£ 1,110	£ —	£ 9,933

In 1946 the Grant-in-Aid provided from the Central Native Treasury Fund was £3,113. The Poll Tax in Mkushi and Serenje Districts is 7s. 6d. per adult male; in Mumbwa it is 10s. in the Sala area (which produces maize) and 7s. 6d. elsewhere; in Lusaka it is 10s. in two areas and 7s. 6d. in the rest of the District; in Broken Hill District it is 12s. 6d. in the Township and 10s. in the rural areas. The rebate to the Treasury has been 2s. per tax, as elsewhere, but this was raised to 3s. 6d. in 1948, when the grants made from the Central Treasury Board were reduced.

THE CONTRIBUTION TO LOCAL SERVICES

Apart from the expenditure actually incurred, the contribution made in other ways to local services is, as many of the local Administrative Officers have agreed, noticeably small. In Lusaka District it has been described as practically nil, for the Native Authorities take no part either in measures for soil conservation or in tsetse clearance, and much the same can be said of Broken Hill. Mkushi District has a number of School Attendance Officers and four Agricultural Assistants, but the activities of the Serenje Native Authorities go little beyond the maintenance of their own buildings and inter-village roads. There are in the Province no Native Authority schools or dispensaries.

THE USE OF THE POWER OF SUBSIDIARY LEGISLATION

As was remarked in dealing with the Western and Southern Provinces, it is only of recent years that attention has been directed to the distinction between Rules and Orders. The extent to which this power has been utilized has depended largely on the individuality of District Officers. Mumbwa District has a list of seven Rules, of which the two most important are the Rules regarding regular attendance at school (1939), the Rule of 1947 for the imposition of a Local Rate of 2s. in the Kaonde-Ila and 1s. in the Sala area (described as a Social Service Levy), and the Rule which prohibits marriage being contracted by "alien natives" unless they have left their own homes for good.

Lusaka District has a considerable list of Orders, most of which refer to matters such as the control of grass fires and the like, but the list also includes Orders providing for regular school attendance, the cultivation of a minimum

area of food crops as a precaution against famine (an important provision in view of the record of periodic scarcity in this District), and the Order regulating the establishment of new villages. There has been an attempt here, as in some other parts of the territory, to prevent the formation of new villages unless they contain at least 10 taxpayers.

In Broken Hill District there are numerous similar Orders, but the only Rule is that providing for the voluntary registration of marriages. In Mkushi District there is, besides a number of Orders, the usual Rule regarding regular attendance at school, and the same is the case in Serenje District. It was noted in the Annual Report for African Affairs for 1947 that latterly increased activity had been shown in proposals for the issue of Rules and Orders. This, however, exhibits the not uncommon tendency to legislate without regard to the practical possibilities of making legislation effective, and there has clearly been great difficulty in persuading Native Authorities to enforce their own Rules and Orders, even in such vital matters as the cultivation of a minimum area of food crops. It is noticeable that the list of Rules and Orders does not in this Province include provision for measures for combating soil erosion.

THE NATIVE COURTS

In the judicial organization the Superior Native Authorities normally constitute Native Courts of Appeal and in some cases also have original powers, exercised in regard to the same class of cases as in the Southern Province. As Courts of Appeal their composition follows, with some small modifications, a regular pattern. In Mumbwa District, the Kaonde-Ila Appeal Court is composed under warrant by the seven Kaonde-Ila Chiefs and six Assessors (who are normally paid Councillors) with a quorum of five, of whom one must be a Chief. The names of the Assessors are recorded in the District Office. The Sala Appeal Court is under reorganization. In Lusaka District the two Appeal Courts have only been recently instituted and there are few appeals other than from the Urban Court of Lusaka Township.¹

In the Broken Hill District the two senior Lenje Chiefs sit with their paid Assessors as the Court of Appeal. The Mkushi Tribal Council constitutes both an original Court with C powers and a Court of Appeal: the warrant lays down that when it sits in the latter capacity it shall be composed of the three Chiefs and their Assessors, two of the Chiefs forming a quorum. In Serenje the Appeal Court consists of three Chiefs and three Assessors; the quorum is four, of whom one must be a Chief. In this District, however, the appeal system is as yet novel and is not well recognized.

The Chiefs who are Subordinate Native Authorities have Native Courts, and in some cases, such as in the Sala chiefdom, Chiefs who were once gazetted as Native Authorities but have since lost that position retain their Courts. The result is shown in the following table on page 127.

There are in addition two Urban Native Courts (Lusaka and Broken Hill) to which further reference will be made in Section VIII. In all the Courts except Urban Courts, the normal procedure is for a Chief to sit with two paid Assessors, though in some cases it is the custom for them to be joined by other persons, who are locally recognized as experienced in native custom or otherwise considered to be trustworthy.

¹ See page 150.

District	Courts with C Powers	Courts with B Powers	Courts with A Powers	Total
Mumbwa ..	—	9	—	9
Lusaka ..	—	2	4	6
Broken Hill ..	2	4	3	9
Mkushi ..	1	3	11	15
Serenje ..	1	4	3	8

As regards the operations of the Native Courts, the following figures are taken from the records of 1947:

District	Criminal Cases	Civil Cases	Breaches of Native Authority Orders	Total
Lusaka	662	573	147	1,382
Mumbwa ..	197	556	249	1,002
Broken Hill ..	512	888	210	1,610
Mkushi ..	285	367	663	1,315
Serenje	162	194	597	953
Total ..	1,818	2,578	1,866	6,262

In Lusaka and Broken Hill Districts, a considerable proportion of the figures relate to the operations of the two Urban Native Courts. There are unfortunately no systematic records kept of the appeals made to Native Courts or to Administrative Officers, but if the few figures available are reliable, there were in 1947 only 31 appeals to the Native Appeal Courts in Mumbwa, 12 in Mkushi and eight in Serenje. Reference will be made in Section VIII to the appeals made from the Urban Native Courts to District Officers.

The general view held regarding the proceedings of these Courts is perhaps best expressed in the Report for African Affairs for 1947. Justice, it says, has been dispensed to the general satisfaction of the African population; but it goes on to admit that improvements are required in many respects, for the Chiefs cannot themselves be regarded as being incorruptible, and procrastination in judicial work is common. It is admitted also that the records of proceedings are summary and that the Court clerks have a low standard of education.

SECTION VI

EASTERN PROVINCE

THE following figures of the area and African population of the Eastern Province are taken from estimates of the 1946 Census:

District	Area in Square Miles	Population	Density per Square Mile
Petauke	8,150	71,000	8·7
Fort Jameson	6,260	157,000	25·1
Lundazi	8,360	73,000	8·7
Total	22,770	301,000	13·2

The greater part of the Province consists of the lands lying to the east of the Luangwa River and watered by its numerous tributaries. In modern times its history has been closely connected with that of Nyasaland, and it is that connection which originally accounted for the interest shown in acquiring land for European occupation, for, as has been shown elsewhere¹ Nyasaland was at one time regarded as an area especially well suited for the settlement of Europeans.

As early as 1891 the German Carl Weise obtained from the Angoni Chief Mpeseni, in return for a payment of £200 a year, a concession which subsequently became the North Charterland Exploration Company Concession, extending over an area of 10,000 square miles. It has always been held by the Government that the conditions on which this extensive area were held carried the obligation to reserve land for the occupation of natives, and any doubts on this point were finally removed by the arbitral award of Mr. Justice Maughan in 1932.² From 1903 onwards Native Reserves were gradually established, which finally amounted to nine in number, namely, five in Petauke District, with an area of 1,485 square miles, and four in Fort Jameson District, with an area of 1,981 square miles. It proved, however, that the areas thus reserved were inadequate for the native population concerned, for at least one-quarter of the land was uninhabitable on account of the lack of water. The resulting congestion on other parts led to a rapidly accelerating deterioration of the land, owing to the inadequacy of the periods allowed for the regeneration of the soil, for it seems to be generally accepted that after three or four years of shifting cultivation, the land requires from 15 to 20 years for regeneration. Deterioration was particularly marked in the Angoni and Chewa Reserves.³ Finally, the Government, as has already been shown,⁴ acquired in 1941 the bulk of the land in the Company's Concession, leaving an area of some 672 square miles, in which rights had already been alienated or were in process of alienation by the Company.

¹ Chapter VI, page 17.

² North Charterland Concession Enquiry, Colonial 73, 1932.

³ Report of Commission on the Area acquired from the North Charterland Company, 1944.

⁴ See page 77.

As a result of these developments, the present position is as follows. The Lundazi District, which has a small portion of the Sambo-Fungwe-Kamanga Reserve, is all Native Trust Land, except for the Township. In Petauke and Fort Jameson Districts, the area of alienated land or land in the process of alienation, is 642 square miles, and 220 square miles will be reserved as Crown Land. The rest of the two Districts will consist of Native Reserves or Native Trust Land. A considerable number of the inhabitants of the original Reserves have already been resettled on Native Trust Land, about 26,000 being so settled in Petauke District (including those who had already emigrated on their own account to what was formerly classed as Crown Land) and 28,500 in Fort Jameson District.

The new areas made available are divided into blocks, each of which is calculated to be sufficient for a village; movement from the congested areas has been by villages, it being left to individual headmen to decide who should move. Subject to the conditions applying to the Native Trust Lands under the Order in Council, 1947, the rights of the occupants in the new lands will be the same as those established by custom in the Native Reserves from which they have moved, the headmen, for example, being left in charge of the allocation of land. The progress of the scheme has been hampered by the lack of water, but the Protectorate Government has provided considerable sums for the construction of dams and wells by the Department of Water Development and Irrigation.¹

The most noticeable feature in the economy of the Province is the expansion in the cultivation of tobacco in the alienated lands in Petauke and Fort Jameson Districts. The first European settlers were cattle ranchers, but ranching never flourished, and it was not until the production of flue-cured tobacco was introduced in 1911 that the settlers began to make any profitable use of their land. There were in 1947 some 88 non-native planters, holding 118 estates, who produced rather over three million pounds of tobacco, valued at £321,494.

As regards native production, the original Reserves in the Petauke and Fort Jameson Districts contain a considerable area of fertile and well watered land; the Nsenga Reserve is particularly good and almost fly free. The other Reserves are partly fertile. In Lundazi District there is a large fertile area east of the Luangwe escarpment. In this District the greater part of the valley population, i.e. 17,849 out of a total for the District of 73,000, is concentrated in the deltas of the streams flowing into the Luangwa River. This District produces maize as a cash crop, of which 15,000 bags were sold in 1948. In the other Districts of the Province Africans produced in all about 40,000 bags of marketable maize and 4,500 bags of groundnuts, and Petauke also produced some tobacco. Though however the Province is, from this point of view, better situated than some other parts of the Protectorate, there is increasing evidence of the deterioration of the soil. The carrying capacity of some of the Reserves has, to use the words of one local officer, entered on a phase during which it will be progressively diminished.²

It may be added that though the number of native cattle in the Province has shown a considerable increase during the last 30 years (the numbers having increased from 10,700 in 1917 to 64,528 in 1947) progress in this respect is seriously restricted by the prevalence of fly and lack of watering places. Only

¹ See Annual Report on African Affairs, 1947, page 46.

² See Report of Commission of 1944, page 7, and Annual Report on African Affairs, 1947, page 47.

two-fifths of Petauke is free from tsetse and Sleeping Sickness is endemic in the valley areas, though fly is said to have receded considerably in recent years. In Fort Jameson fly is universal throughout the Luangwa valley; in Lundazi it has encroached rapidly, and only about 10 per cent. of the District is free from it, though here also encroachment is now said to be halted. In the Fort Jameson District the Game and Tsetse Department has been actively engaged in bush clearance and the shooting of game, and this has already effected some improvement, but these operations have not yet been extended to the Petauke and Lundazi Districts.

The local European estates do not provide labour for any large proportion of the African population, the numbers engaged varying from 5,000 to 8,000 in different seasons. But there is in this Province also the feature so common elsewhere in the Protectorate, namely, the migration of labour in search of wages either beyond the Province or in other territories. The proportion of taxable males "away at work" was given in 1947 as 56 per cent., of whom 26 per cent. were working outside the Protectorate, figures which reflect the generally low standard of living available in the villages. It will be realized at the same time that migrant labour makes a useful addition to the resources of the Province. The bulk of the money brought home is in the form of notes, but in 1947 postal orders to the amount of £48,579 were cashed at Post Offices in the Province.

THE TRIBAL STRUCTURE

The great majority of the tribes belong linguistically to the Tumbuka-Nyanja speaking group referred to in Section I. The Tumbuka with the Bakafula appear to have been early inhabitants and suffered from the successive invasions of the Chewa (about 1750), the Senga (about 1800) and the Agoni (about 1860). Now the only Tumbuka Chief is Mpumba, whose chieftainship was given to him about 1919 by the Chewa Chief Zumwande. There are no records of Tumbuka tribal organization before the Angoni incursion, but their language is widely spoken in Lundazi.

Judging from the figures of 1934, the most numerous tribe is now the Chewa (78,400), inhabiting mainly the Fort Jameson District and the south of the Lundazi District. Like the large Chewa population in Nyasaland, the Chewa in Northern Rhodesia had their original home in the Luapula-Lualaba region of the Belgian Congo, but the groups now found in the Eastern Province appear to have approached the Luangwa valley from Nyasaland, or at all events from the east, about the middle of the eighteenth century. The Senga (67,477) also had their origin in Lubaland, and were closely connected if not identical with the Wisa. Their original migration possibly commenced in the fifteenth century, but they appear to have reached the Luangwa River from the north-west, at a period judged to be in the beginning of the nineteenth century. Circumstances brought them into close relations with the Tumbuka, with whom they intermarried and whose speech they have largely adopted. There seems to be some doubt whether the northern Senga, inhabiting the upper portion of Lundazi, are connected with the Nsenga in Fort Jameson; the numbers given above include both tribes.

The Angoni (55,991), inhabiting the south-east part of Fort Jameson District, represent part of the Angoni invasion referred to in the Chapter on Nyasaland,¹ and which has left so deep a mark on the modern history of this

¹ Chapter VI, page 23. For these tribes generally, see E. H. Lane Poole, *The Native Tribes of the Eastern Province of Northern Rhodesia*, 1938.

part of Africa. It need only be added here that when Zwangendaba and his followers crossed the Zambezi in 1835 they were already composed of "a heterogeneous and polyglot multitude of Angoni, Kalanga, Suto, Tonga, Swazi and others," and that their subsequent movements added to the number of tribal elements which they assimilated. The section which finally settled in the Eastern Province was led by Mpezeni, one of Zwangendaba's sons, who, after being defeated by the Wemba when he attempted an invasion of their country, turned back across the Luangwa River, and conquered part of the areas held by the Chewa and Senga.

It is to this period, roughly about 1865, that is to be ascribed the absorption of part of the Senga villages and the acquisition by the Angoni of the Senga dialect, now generally spoken by them. Of the two remaining tribes in the Province the Kunda (27,177), like the Senga, formed part of the migration originating in the Luapula-Lualaba region of the Congo, and like them, were at that period closely associated with the Wisa. It is believed that they arrived in their present position across the Luangwa between 1840 and 1850. The Ambo (12,100, of which over half are really Nsanga) had a similar origin, and arrived in their present position in Petauke District at about the same time. They now show a tendency to seek union with the Lala-Lima Native Authority in the Mkushi District of the Central Province. It is characteristic of the extent of intermarriage among these different tribes that their dialects are now gradually being merged into Chichewa, which is becoming the lingua franca of the District.

THE COMPOSITION OF THE NATIVE AUTHORITIES

Until 1948 the formation of the Native Authority organization was as shown in the following table:¹

District	Superior Native Authorities	Subordinate Native Authorities
Petauke	Kalindawalo and the Nsenga Tribal Council	5 Chiefs and Councils
	Lwembe and Mwape and the Ambo Tribal Council	Nil
Fort Jameson	Mpezeni and the Ngoni Tribal Council	6 Chiefs and Councils
	Undi and the Chewa Tribal Council Nsefu and the Kunda Tribal Council	5 Chiefs and Councils 3 Chiefs and Councils
Lundazi	Magodi and the Tumbuka Tribal Council	3 Chiefs and Councils
	Kambombo and the Senga Tribal Council	4 Chiefs and Councils
	Mwase Lundazi and the Lundazi Chewa Tribal Council	4 Chiefs and Councils

Of these Superior Native Authorities, that of Chief Mwase Lundazi is a recent creation. There had long been difficulties regarding the Chewa in the Fort

¹ For the reorganization carried out in 1948 see page 84.

Jameson District, where they were divided into two groups, possibly representing different stages of migration, and Chief Undi, who belonged to a chiefly Chewa family in Portuguese East Africa, was brought over in an attempt to unite these two groups. As far as Fort Jameson District is concerned, this measure met with some success, but the Chewa in Lundazi District have never accepted the paramountcy of Undi. A local Chewa Chief, Mwase Lundazi, and the Lundazi Chewa Tribal Council were accordingly gazetted as a Superior Native Authority for Lundazi in 1947.

The Superior Native Authorities in this Province had up to 1948 a uniform formation, consisting of a Senior Chief—in some instances entitled Paramount—and a Tribal Council. As elsewhere, these Tribal Councils did not have a rigid form. They were composed not only of the Chiefs who were Subordinate Native Authorities but of the Chiefs—of whom there are a number, as for instance in Fort Jameson—who had not been given this status. They were attended also by the paid Councillors attached to each chiefdom. But as in many other instances already referred to, their functions were mainly legislative, or confined to the maintenance of the Native Treasury or providing the membership of an Appeal Court.

The thirty Chiefs who were gazetted as Subordinate Native Authorities included the nine Senior or Paramount Chiefs who exercised authority in their own chiefdoms, though Chief Undi, in the Chewa area of Fort Jameson District, was singular in having personal authority only in his own village. Each Chief had two or more paid Councillors who here as elsewhere were not distinguishable from Court Assessors; thus there were as many as 42 such appointments in Petauke, 92 in Fort Jameson, and 41 in Lindazu. Headmen and others attend the meetings of the Chief's Councils. It is said that Chiefs do not act independently of the Councils, and will only take any important decision after full consultation with them. While meetings are not held on regular fixed dates they are of regular occurrence. There is not here any evidence of the introduction of educated commoners into the Councils.

The chiefdoms are hereditary and with the exception of the Angoni chiefdoms, follow the matrilineal system. There is, however, a tendency, similar to that noted elsewhere, to attempt to adopt the patrilineal custom, and it is noticeable that in some areas, such as Lundazi, it is not unusual for selection to fall on junior members of the "family," a term which in African custom has a very wide connotation.

In 1947 the salary of the Chiefs ranged from £30 to £100 in Petauke, £27 to £120 in Fort Jameson, and £15 to £75 in Lundazi, but these figures have been increased as the result of the reorganization undertaken in 1948. There is here a somewhat higher degree of literacy than in the Southern and Central Provinces, seven of the Chiefs in Petauke, and twelve in Fort Jameson being literate. There is the usual diversity in the personality of these Chiefs. Among the Senior Chiefs, one is singled out as active and intelligent, and another as beginning to show a sense of responsibility. On the other hand another of the more important Chiefs is described as un-co-operative and assisting to keep alive the ill-feeling felt by the tribe owing to the inadequacy of the Reserve originally set apart for their use. A Senga Chief and a number of the Senga sub-chiefs in Lundazi have recently been imprisoned for offences connected with ivory poaching.

In a few instances the post of paid Councillor is regarded as hereditary, but normally the Councillors are selected by the Chief from among the

headmen, and it is said that other headmen are usually consulted before the choice is made. It is noticeable that there are here a larger number of literate Councillors than in some other Provinces; in Petauke District, for example, 16 are described as literate, and a fair proportion also in Lundazi. Their pay is from £12 to £42 in Petauke (where one Nsenga Councillor is described as Chief Minister), £12 to £24 in Fort Jameson, and £12 in Lundazi. The headmen, who are unpaid, are numerous, 700 to 800, for instance, in Petauke and 1,630 in Fort Jameson District, and their posts are normally hereditary.

The general effect of the reorganization which was undertaken in 1948 has been to add importance to the position of the Senior or Paramount Chiefs who act as Presidents of the Superior Native Authorities, and its success depends largely on the personality of these Chiefs. Some tribes, as for example, the Angoni, retain a tradition which gives real value to the position of a Paramount; but there are others in which the status of paramountcy is of our own creation, and the real centre of authority still resides in the local Chief and his headmen. Its success will depend, in the second place, on the possibility of finding among the existing Councillors or in other quarters men who can act as "Ministers" in charge of various departments of Native Authority work. This is a feature of the scheme which has been inspired by the precedent set in Barotseland, and as has been remarked in dealing with that Province,¹ its operation will be watched with great interest in other territories, for whom it may point the way to an important development in the procedure of native administration.

THE NATIVE TREASURIES

Each of the Superior Native Authorities has a Native Treasury and up to the present the efforts made to persuade them to combine in a single Treasury for the District have not been successful. It is said that in many cases the Chiefs have taken a part, and in a few cases an active part, in the preparation of the Estimates. There are, however, as yet no Finance Committees dealing specially with this subject. Since the responsibility for the collection of the Native tax is often closely connected with the interest taken in the operation of a Native Treasury, it is noticeable that in all three Districts the Native Authorities now collect the larger proportion of the tax.

The resources of the Native Treasuries as shown in the accounts of 1946, though somewhat larger than in the Central Province, were by no means extensive:

REVENUE

Number of Treasuries	Native Tax	Court Revenue	Other Recurring Income	Grants-in-Aid	Total
8	£ 8,460	£ 2,956	£ 1,654	£ 6,103	£ 19,173

EXPENDITURE

Adminis- tration	Education	Agriculture Veterinary	Communi- cations	Health	Total
£ 9,540	£ 2,277	£ 404	£ 711	£ 33	£ 12,965

The Grants-in-Aid represent receipts from the Central Native Treasury Fund. Poll tax was everywhere 7s. 6d. per adult male, and the rebate to the Treasury 2s. per tax, which was increased to 3s. 6d. in 1948. The Native Authorities in Petauke and Lundazi Districts have imposed an "Education levy" of one shilling per poll on all taxpayers.

The principal contribution made to local services from the Native Treasury funds has been in respect of Education. The Petauke and Fort Jameson Districts each have two Native Authority schools, and though the salaries of teachers are paid by the Government, the upkeep of the buildings and the maintenance of School Attendance Officers fall on the Native Authorities. These Schools are well reported on by the Department of Education¹ and it is stated that the local Native Authorities have shown a personal interest in their progress.

For the rest, there is little direct contribution made to local services. The operations of the Game and Tsetse Department and the Department of Water Development and Irrigation, to which reference has been made above, are defrayed by Government. Only in three of the chiefdoms does it appear that Chiefs have given any active assistance to the Agricultural Department in measures for soil conservation. The Native Authorities maintain no dispensaries, but in two of the Districts there are travelling "medical orderlies." There are in the whole Province only 10 dispensaries, which are maintained by the Government, with four subsidized Mission dispensaries.

THE USE OF THE RULE-MAKING POWER

The use made by the Native Authorities of their power for making Rules and Orders does not differ materially from that noted in the case of the Southern or Central Provinces. Each of the three Districts has Rules for the voluntary registration of marriages and prescribing regular attendance at school. Petauke has in addition a Rule regulating the movement of minors from the jurisdiction of the Native Authority, and Lundazi has a Rule providing for the establishment of Communal Granaries. In Fort Jameson and Petauke Districts the Native Authority Orders provide for contour ridging and other measures to assist soil conservation, and records show that a certain number of prosecutions have been undertaken for the breach of these Orders. There has been a similar use of Orders on the subject by the Chewa Native Authority in Lundazi District.

THE NATIVE COURTS

The judicial organization follows the same pattern as in the Southern and Central Provinces. Each of the Superior Native Authorities constitutes an Appeal Court. The bench on these occasions consists of Chiefs and their Assessors, the quorum usually being two Chiefs and not less than three Assessors, though there are some local variations in this procedure. The "senior" or Paramount Chief presides. The Subordinate Native Authorities have original Courts of varying grades, but there are also in two of the Districts a number of Courts presided over by Chiefs who have not the status of Subordinate Native Authorities. The result is shown in the following table:

¹ Annual Report on African Affairs, 1947, page 52.

District	Courts with C Powers	Courts with B Powers	Courts with A Powers	Total
Petauke	2	3	4	9
Fort Jameson	4	10	14	28
Lundazi	1	10	6	17

There is in addition the Urban Court at Fort Jameson to which reference will be made in Section VIII. In the rural areas the bench of a Native Court normally consists of the Chief and two Assessors, but in the Nsenga tribal area of Petauke District the Councillor designated as "Chief Minister" usually presides in place of the Chief.

The records for 1946 give the following figures of cases heard in the Native Courts:

District	Criminal Cases	Civil Cases	Breaches of Native Authority Orders	Total
Petauke	1,234	1,413	708	3,355
Fort Jameson	1,763	2,098	501	4,362
Lundazi	427	855	No figures	
Total	3,424	4,366		

The figures for Fort Jameson District include cases heard in the Urban Court. It appears that in Petauke District 30 appeals from original Courts went to the Native Appeal Courts, and the same number in Fort Jameson. There were only eight appeals in Lundazi. There were very few appeals to District Officers, namely, three in Petauke, one in Fort Jameson, and four in Lundazi.

Most District Authorities concur in holding that the work of the Courts is in general satisfactory, and some Courts are described as being held in considerable esteem. It must be noted, however, that though their proceedings are regularly submitted to District headquarters and are there "reviewed" by District Officers, this review does not usually go beyond the revision of sentences which are in excess of the powers possessed by a Court. The Court records are scanty, and inspections on the spot are carried out at intervals which, judged by the practice in some other territories, seem unduly long. In one at least of the Districts it is said that such inspection takes place only once a year.

SECTION VII

NORTHERN PROVINCE

The area and African population of the seven Districts which now compose this Province have been estimated as follows; these figures have been taken from the estimates of the 1946 Census:

District	Area	Population	Density per Square Mile
Mpika	16,130	38,000	2.4
Chinsali	8,340	33,000	4
Kasama	6,270	57,000	9.1
Luwingu	6,660	53,000	8
Mporokoso	10,460	46,000	4.4
Abercorn	6,700	46,000	6.9
Isoka	8,320	34,000	4.1
Total	62,880	307,000	4.9

Though the area covered by the Province is extensive, it contains large areas, such as the swamps of Lake Bangweulu¹ and the Mweru marshes, which are useless for cultivation, and there is a considerable proportion of land elsewhere which, owing either to poverty of soil or lack of water, is very sparsely inhabited.

The lack of contact with railway and other communications has diminished the demand for alienation for European occupation. With the exception of small areas held by Missions and one farm alienated in Kasama and one held available in Luwingu District, all land in Mpika, Kasama, Luwingu and Isoka Districts is classed as Native Reserve or Native Trust Land. In Chinsali District there are seven isolated European farms and in Mporokoso there is one small alienated block of 11 square miles.

It is only in Abercorn District that there is any considerable extent of alienation. This District formed part of the "Tanganyika Estate" of 4,300 square miles extending over the Abercorn and part of the Isoka Districts. The Estate was acquired by the British South Africa Company from the African Lakes Corporation, whose rights had been confirmed by Certificates of Claim issued by the British Government.² A number of European settlers acquired land from the Company, but cattle ranching, cotton and coffee planting and various other enterprises proved in the main unsuccessful, and the estates now held by settlers appear to have mainly a residential value. The un-alienated

¹ The Lake is about 1,160 square miles in the dry season and during the rains the area of flood and swamp may amount to 4,500 square miles. See W. V. Brelsford in Rhodes Livingstone Papers, No. 12, 1946.

² See Chapter VI, Nyasaland, page 17.

part of the Tanganyika Estate has now (as shown in Section I) been surrendered by the British South Africa Company, 1,478 square miles being a gift for native use and the remainder being bought by the Government. While the Estate was in the possession of the Company, a number of Native Reserves were established, and natives were in some cases compulsorily moved into them, with the result that some have shown marked signs of deterioration.¹ Following on the recommendations of the Land Commission of 1946, the area formerly comprised in the Estate will now be classed as follows: 145 square miles alienated land, 546 square miles reserved as Crown Land, 3,467 square miles as Native Reserves and Native Trust Land. The Commission observed that it was doubtful whether any considerable part of the Crown Land would actually be required for European settlement, but there are now indications that European applications for leases of Crown Land are on the increase.

Practically the whole of the Province is given up to subsistence production, usually of a low level. The plateau which occupies a large part of it has poor soils and a sparse population, with finger millet as the staple crop, and it is characteristic of the type of soil available that a wide use is made of the "chitemene" method of cultivation. According to the Report of the Ecological Survey,² this may in the plateau area involve the use of as much as 470 acres for the support of a family of four persons.

The Lake basin areas which occupy the depressions in the neighbourhood of Lakes Bangweulu and Mweru are more densely settled and here cassava is the staple crop. In the Upper Luangwa Valley there are long stretches of *mopani* bush with fertile strips of river alluvial which allow of the production of maize in addition to kaffir-corn and finger millet; Isoka District, for example, has for some years had a small surplus of marketable maize. The *chitemene* system here is said to require the use of 200 to 300 acres for the needs of one family of four persons. The devastation caused by this method of cultivation has led to the introduction of a system of *chitemene* Control, the success of which will depend largely on the part taken by the Native Authorities in its working.³ Its objective is to secure the lopping rather than felling of trees in a regular sequence, coming back to the starting point after a rejuvenation period of 20 years. This scheme has so far been fully applied only in the Abercorn District, but also occurs in bordering Districts.

It is further typical of the restricted economy of the Province that the number of cattle is relatively small. Mpika District for instance is reported to have only 500 head, Luwingu 385, Chinsali 1,150, and Kasama 673, while they are practically non-existent in Mporokoso. Abercorn with 11,128 and Isoka with 11,033 are the only Districts with any considerable number of cattle. The absence of cattle is partly due to the fact that most of the tribes (with the exception of the Mambwe in Abercorn and some of the tribes in Isoka Districts) are not pastoralists, but it is also due to the prevalence of fly. In Mpika District only isolated patches are free, and fly is particularly heavy in the Luangwa Valley; about half Chinsali and Kasama Districts and one quarter of the Isoka District are infested. In Abercorn the Lake shore is heavily infested and has for some years been the theatre of operations for the clearance of fly, which are said to be reducing its incidence. In Mporokoso District

¹ The position is explained in paragraphs 156 to 166 of the Financial Report on Northern Rhodesia, Colonial 145.

² The Soils, Vegetation and Agriculture of North-Eastern Rhodesia, C. G. Trapnell, 1943, paragraph 325.

³ See Laws Numbers 67 to 75, Lungu-Tabwa and Mambwe Laws. Page 144.

there is a heavy belt of fly extending to nearly the whole length of the Muchinga escarpment as well as isolated pockets all over the Bwile and Tabwa areas.

The statistics of migrant labour do not differ widely from those of the neighbouring Provinces. Of the "taxable" males, 42½ per cent. are estimated to be working for wages, of whom about 10 per cent. are working in their own Province and about 32 per cent. outside it.

THE TRIBAL STRUCTURE

The outstanding feature of the tribal composition of the Province is the predominance of the Bemba in the central plateau. According to an estimate made in 1934, they then numbered 114,274 as against 41,591, the estimated number of the next largest tribe, the Bisa. It is well established that the Bemba were of Luba origin, inhabiting what is now the Kasai District of the Belgian Congo, and when they arrived in the Kasama area of Northern Rhodesia, some two hundred years ago, they found the Bisa already in possession.

They drove the Bisa from the plateau into the Bangweulu swamps and the Luangwa Valley and scattered them. With the aid of Arab slave traders, they repelled the attacks made by the Angoni, and thereafter raided the Mambwe, Lungu and Inamwanga tribes, and occupied large areas of their countries. Their control extended at one time into the Congo and to the shores of Lake Tanganyika, and they exerted an influence over much of the Lala country to the south. Today the Bemba constitute a far more homogeneous community than most of their neighbours, its political integration being maintained by the existence of the magico-religious ritual which has a dominating position in Bemba society. As will subsequently be shown, this has had a considerable part also in determining the form of the present Native Authority organization.

Among the Bemba-Lala-Lamba speaking group of tribes on the plateau the tribe next in importance to the Bisa are the Unga (11,782) largely inhabiting the swamps of Lake Bangweulu, the Mukulu (13,769) and the Tabwa (7,918). All these trace their origin to Lubaland. The Batwa of the Bangweulu swamps, who claim (though apparently without good reason) to have inhabited the country before the Bantu immigration, were not separately counted in 1934. Chiwemba is practically the lingua franca of the tribes on the plateau.

In the north and north-east are a number of Mambwe-speaking tribes, the Lungu (25,452), Mambwe (18,922), Inamwanga (10,249) and Iwa (10,780). These are commonly described as "eastern Bantu," and appear to have some connection with the Fipa people of Tanganyika Territory and the Nyamwezi tribe further north. In the eastern portion of the Isoka District there are small sections of various tribes who came from Nyasaland and Tanganyika Territory prior to and during the Arab wars, the chief being the Tambo (4,649), the Yombe (4,290), Fungwe (3,895), Nyika (2,025) and Lambya (2,270). All these small communities are allied to the Nkonde, Henga, Tumbuka and Tonga tribes of north-west Nyasa.¹

¹ For the Bemba, see A. Richards, pages 83-120, *African Political Systems*, M. Fortes and E. Evans Pritchard, 1940. There is some account of the Unga and Batwa in W. V. Brelsford's *Fishermen of the Bangweulu Swamps*, Rhodes Livingstone Papers, Number 12, 1946. See also the Memorandum of J. Moffat Thompson previously quoted. Some of the figures given in the text above represent local corrections of the estimates made in 1934.

THE FORMATION OF THE NATIVE AUTHORITY SYSTEM

The somewhat unusual tribal composition of the Province is reflected in the formation of the Native Authority system. This is at first sight somewhat confusing, since it recognizes tribal rather than administrative boundaries, and results in a number of Native Authorities being subordinate to Superior Native Authorities resident in other Districts. The formation as it stood early in 1948 is best shown in tabular form. As previously noted, the system was being reorganized during 1948.

District	Superior Native Authorities	Subordinate Native Authorities
Mpika	Kopa and the Bisa Tribal Council	6 Chiefs and Councils subordinate to Kopa and the Bisa Tribal Council.
	—	3 Chiefs and Councils subordinate to Chitimukulu and the Bemba Tribal Council in Kasama district.
Chinsali	Nil	4 Chiefs and Councils subordinate to Chitimukulu and the Bemba Tribal Council in Kasama district.
	—	2 Chiefs and Councils, subordinate to Kopa and the Bisa Tribal Council in Mpika district.
Kasama	Chitimukulu and the Bemba Tribal Council	6 Chiefs and Councils.
Luwingu	Chungu, Kalimankonde and the Mukulu-Unga Tribal Council	7 Chiefs and Councils.
	—	3 Chiefs and Councils subordinate to Chitimukulu and the Bemba Tribal Council in Kasama district.
	—	2 Chiefs and Councils subordinate to Kopa and the Bisa Tribal Council in Mpika district.
Mporokoso	Putu and the Bwile Tribal Council	Nil
	—	2 Chiefs and Councils subordinate to Chitimukulu and the Bemba Tribal Council in Kasama district.
	—	4 Chiefs and Councils subordinate to Tafuna and the Lungu-Tabwa Tribal Council in Abercorn district.
Abercorn	Nsokolo and the Mambwe Tribal Council	3 Chiefs and Councils.
	Tafuna and the Lungu-Tribal Council	4 Chiefs and Councils.
Isoka	Council of Chiefs of the Tambo, Fungwe, Nyika, Lambya, Yombe and Wandya Tribes	6 Chiefs and Councils.
	Wayitwika, Kafwimba and the Winamwanga-Wiwa Tribal Council	4 Chiefs and Councils

In general therefore the Superior Native Authorities followed the same form as elsewhere, five consisting of a Paramount or Senior Chief and the Tribal Council, one of a Council of smaller Chiefs (Isoka District) and two of amalgamations of two Senior Chiefs (Isoka and Luwingu Districts). As elsewhere also the Tribal Council was not a formally constituted body, but consisted of the Chiefs who were Subordinate Native Authorities and their Councillors. They were joined by certain Chiefs who were not recognized as Native Authorities, and by persons who are generally accepted as holding a special position, either as superior headmen or for other reasons having local prestige. Up to 1948 no special arrangements appear to have been made to secure membership in the Tribal Council for persons distinguished on other grounds, such as education. The Paramount or Senior Chief normally presided, except in the Isoka Council of Chiefs where a chairman was chosen annually by the Chiefs concerned, and in the Councils of the two amalgamated Chiefs, where each was chairman for a year alternately.

If a major Superior Native Authority, such as that of the Bemba, had had an executive organization similar to that of the Barotse, it might have occupied a comparable position. But that is not the case. The function of these Authorities was normally limited to the discussion of Rules and Orders of general application, to the management of their Native Treasuries (though this was often little more than nominal) and to the provision of Native Courts of Appeal. Though the subordinate Chiefs appear to entertain a marked respect for the Paramount authority, especially among the Bemba, the latter have exercised in practice very little direct control over them.

The chiefdoms are in every case hereditary, in the sense in which this term has been used when dealing with the system by which succession is regulated in other Provinces. Succession everywhere follows the matrilineal custom, with the exception of the Mambwe Chiefs in Abercorn District and the Chiefs composing the Council of Chiefs in the Isoka District. There is evidence that the process of selection frequently results in passing over those members of a chiefly family who are manifestly unsuitable, in point either of mental or moral deficiency. In the case of the Bemba the system of succession is complicated, and its intricacies have been made the subject of a special study by Mr. W. V. Brelsford in his pamphlet entitled "The Succession to the Bemba Chiefs."¹ But there are other features also in the Bemba organization which give it an unusual character and require some reference here.

That organization has to be viewed in a dual aspect, religious and temporal. The Bemba Paramount owes his personal position largely to the fact that he is head of an ancestral cult. The political structure of the chiefdom, on the other hand, is based on the dominance of a leading clan. The clans rank in seniority according to whether their original ancestors arrived in the country as part of the following of the first Chitimukulu or split off as a separate descent group later on. Thus the Crocodile clan to which the Paramount belongs stands highest in rank, and members of the clan are entitled to the special position accorded to "royal" clansmen.

The whole Bemba country is divided into districts (ifyalo, singular icalo), each of which is in charge of a Chief with a fixed title, this being the name of the first ruler to be appointed over it, always a close relative of one of the first Chitimukulus. Each icalo is a self-contained unit, and to the commoner the membership of an icalo means his allegiance to the Chief of that district.

¹ Lusaka, 1944.

These territorial chiefships are arranged in order of precedence, according to their nearness to the centre of the country and the antiquity of their office. There are at the present time three families of the royal totem, each of which has a powerful chieftainship attached to it. The position of Paramount has alternated between the two senior families. The sons of Chiefs who are not of the royal totem also have important chieftainships. Thus there are several overlapping hierarchies, but the movement of sons from one post to a more important one cannot take them into posts held by the royal clan. It has been remarked that one effect of this system is to involve something resembling a "general post" on the death of any of the more senior Chiefs.

In the icalo of the Paramount Chief there are a number of hereditary Councillors (Bakabilo) who are sometimes priests and sometimes members of the royal clan. They are "ultimately responsible for the whole spiritual and material welfare of the people," and as such it is their function to ensure the maintenance of ritual, a position which gives them a marked influence, since the due maintenance of the ritual is indispensable to the status of the Chief himself and to his own performance of his religious duties. In addition to religious and ritual duties they are the interpreters of tribal law; they sit in Court when needed and take precedence over all other Assessors; they rule the country during a regency and they settle succession disputes. A number of them control areas of their own and all of them are to a considerable measure independent of the Chief's powers.

The Bafilolo constitute another body. They are Elders of the Chief's Court and are in charge of questions concerning his capital. They reside in the Chief's village, whereas the Bakabilo live throughout the area and are administrative officials as well as Court Assessors. Their posts are not hereditary.

Among the Bemba the headman of a village is the hereditary head of a kinship group, who in one respect acts as the guardian of its ritual, and in another acts as the representative of the Chief, though in modern times his authority tends to rest on his temporal rather than his spiritual position.

Thus the Bemba organization is not democratic in our sense of the word, and a commoner would seem to have less opportunity of making his voice felt in tribal affairs than in the normal Bantu community. There is obviously a special difficulty in adjusting to modern requirements an organization whose basis is partly magico-religious and partly aristocratic, with the result that authority is vested in the hands of a limited circle of persons. In one respect only can it be said that there is any check on the authority of the Chief, namely that which may on occasion be exercised by the Bakabilo, whose co-operation is necessary to enable the Paramount Chief to carry out the religious functions which tribal custom imposes on him. But the Bakabilo obviously represent a conservative element that may at times be also reactionary.

The Chiefs had in 1947 salaries ranging from £37 10s. to £150 in Mpika District, £12 to £115 in Chinsali, and £45 to £225 in Kasama, where the Paramount Chief receives £225 and the titular "Senior Chief" £152. In Luwingu and Mporokoso Districts their salary ranged from £30 to £84 7s. 6d., in Abercorn from £46 to £150 and Isoka from £12 to £75. A fair proportion are described as literate, eight out of nine being so classed in Mpika, four out of six in Chinsali, eight out of 12 in Luwingu, four out of six in Mporokoso and five out of seven in Abercorn. The proportion is lower in Kasama and Isoka. There is the usual diversity in the assessment made of their character

and performances. The senior Bisa Chief in Mpika is described as outstanding in point of personality. On the other hand the chiefs in Luwingu are said to inspire fear rather than respect; the Bemba Chiefs in Mporokoso are described as "lackadaisical and unco-operative," and the Mambwe Chiefs in Abercorn as poor in quality. The small Chiefs in Isoka have little authority. There are some District Officers who say frankly that a number of the Chiefs in the Province are maintained in their present positions only by virtue of the powers conferred on them by the Native Authority Ordinance, and by the support given to them by Government.

THE COUNCILS IN THE CHIEFDOMS

The circumstances in this Province render it especially important to note the character of the Councils in the individual chiefdoms. Throughout the Bemba chiefdoms, the Councils contain both the Bakabilo and Bafilolo to whom reference has been made above, but it is natural to find that in the Paramount's own chiefdom there is a more considerable proportion of the Bakabilo than elsewhere. In the areas occupied by other tribes there is a smaller number of Councillors of the hereditary type, and in some cases they are taken entirely from the ranks of headmen. Viewed from the standpoint of the Native Treasury Estimates, there were attached to the chiefdoms in the Province in 1947 a total of 88 persons described as Councillors, drawing an average annual pay of about £15 a head, and 112 persons described as Assessors, drawing an average pay of £15 a head.

But it will be appreciated that the Councils here, as elsewhere, embrace a much wider membership (if this term can rightly be applied to bodies so informally constituted) than the paid Councillors or Assessors. In the Paramount's Council in Kasama, for example, there would be included not only the Bakabilo and Bafilolo, but numerous members of the "royal" clan. Elsewhere the meetings are attended by senior headmen or other persons locally prominent. In some of the Districts an endeavour has been made by Administrative Officers to secure the introduction of commoners who have had some experience of outside affairs. These efforts have only met with partial success, but there are some instances, as in Mporokoso and Luwingu, in which ex-askaris have been introduced. It would seem that elsewhere the conservative elements are still too strong.

Reference has already been made to the position of the headmen in the Bemba system. In other tribal areas they are normally heads of family groups, the successor to a deceased headman being selected by the people. In some cases Chiefs are said to attempt to have their relatives appointed, but their success in doing so depends on their personal authority, and such cases seem actually to be rare. The village units are usually small, and the wide prevalence of the matrilineal and matrilocal system gives a certain character of permanence to the position of headmen. The numbers are large: Chinsali District for instance has 400, Kasama 718, Luwingu 806 and Mporokoso 527. They are not paid.

THE NATIVE TREASURIES

As already noted, each of the Superior Native Authorities has a Native Treasury, and in the Districts in which there are several such Authorities, they have not so far agreed to unite in forming one Native Treasury for a

District. The position is additionally difficult in this Province, owing to the provision by which a Superior Native Authority in one District may be responsible for the sub-Treasuries held by Subordinate Native Authorities in other Districts. In these circumstances, the part taken by the Superior Native Authority in the working of the Native Treasury system must necessarily be little more than nominal, since Estimates which reflect the needs (or the revenues available) in one District, cannot be usefully dealt with in another.

There appear moreover to be only a few instances where the Chiefs are yet competent to take a really intelligent interest in Treasury matters. Two interesting opinions may be quoted in this connection. In Chinsali the District Officer has remarked that there has been some progress in the course of years. "The Treasuries are barely 12 years old, and were for several years limited to the bare payment of personal emoluments and one or two elementary services. Until 1943 my experience was that the Chiefs could only understand the practical aspects of the Treasury by long and patient illustration with piles of stones to represent money which was carried in by taxpayers and carefully rationed out for various purposes. To-day the Chiefs and Councillors can follow figures to a certain extent." In Luwingu the District Officer says that he personally "sets out the figures on a blackboard, and each year a few more people grasp what it is all about." It appears that tax collection is now made to an increasing extent by Native Treasury and Native Court clerks, with a corresponding reduction in the direct part taken by District headquarters. In several of the Districts it is stated that at least 90 per cent. of the Native Tax is collected by these means.

The resources available to the Native Treasuries are shown in the following figures, taken from the accounts of 1946 :

REVENUE

Number of Treasuries	Native Tax	Court Revenue	Other Recurring Income	Grants-in-Aid	Total
10	£ 6,752	£ 2,322	£ 1,968	£ 6,729	£ 17,771

EXPENDITURE

Administration	Education	Agriculture, Veterinary	Communications	Health	Total
£ 10,183	£ 1,630	£ 161	£ 1,619	£ 416	£ 14,009

In 1946 the grants paid to the Native Treasuries from the Central Native Treasury Fund were £4,845. The native tax is everywhere 6s. per adult male, except in Luwingu, where it is 7s. 6d. The rebate to the Native Treasury, formerly 2s. per tax, was raised to 3s. 6d. in 1948. It is at the same time noteworthy that the Native Authorities have made an effort to increase the resources of their Treasuries by local taxation. The Lungu of Abercorn District raise revenue by a grain levy. All Isoka Native Authorities have imposed a General Purpose Levy of 3s. per adult male. The Bisa in Chinsali and Mpika have a local Education and Health rate of 1s. 6d. per tax payer.

As will be seen, the item of Administration accounts for about 72 per cent. of the total expenditure. In the very limited expenditure available for local services, the chief item is in respect of Education. There are, however, only four Native Authority schools in the Province, and the great majority of the children attending school (some 42,000 in number) are in the aided or assisted Mission schools, but it is typical of the standard of education that in 1947 about 60 per cent. of the children were in the substandards A and B. Most of the Native Authorities maintain School Attendance Officers, and though in a few cases they are said to be doing good work, the Provincial Education Officer has complained that the enforcement of the School Attendance Order has been carried out in a lethargic and dilatory manner by most Native Authorities.

There are no Native Authority dispensaries, but most of the Districts maintain itinerant medical orderlies, who have had six months' training, though District Officers have been divided in their opinion as to their value. In Abercorn District all chiefdoms have these orderlies. It may be remarked that there are in this extensive Province only three Government and two Mission hospitals, with the result that there are very large areas with no medical facilities whatsoever. The only other service rendered by the Native Authorities in addition to those mentioned is the upkeep in all Districts of a number of Agricultural or Food Production "kapasus" or orderlies, while Chinsali has two small seed farms. Isoka has three and Abercorn five such farms.

THE USE OF RULE-MAKING POWERS

It is always difficult to judge how far Native Authorities act on their own initiative in exercising their powers of subsidiary legislation. One gains the impression that in the Northern Province they have invariably acted on the suggestion or even pressure of District Officers in making Rules relative to matters which have been held to be of definite public interest (such as Rules regulating cultivation or soil conservation) and that in a variety of other matters a Rule or Order has only been made after consultation with the District Officer, who has generally been responsible for drafting it. The Rules and Orders made by the Bemba Superior Native Authority, numbering in all about 104, were collected in 1946 in a pamphlet known as "The Laws of the Bemba." There are actually only three Rules, one relating to regular attendance at school, one to the voluntary registration of marriages, and one allowing for the levying of local rates. The numerous Orders are of the same nature as in some of the other Provinces, the most noticeable being that which regulates the establishment of new villages and allows a Chief to abolish any village with less than ten registered taxpayers.¹

The Bisa have also collated their Rules and Orders. The Mambwe and Lingu-Tabwa Superior Native Authorities in the Abercorn District also have a considerable list of Rules and Orders, many of which are in the standard form, relating to such matters as the regulation of bush fires, the digging of latrines, reporting of disease, or the cultivation of a minimum area of crop as a precaution against famine. Other Orders have prescribed the penalties to be paid by persons convicted in the Native Courts in cases of adultery, slander and the like, and have given guidance to the Courts in dealing with divorce, inheritance and similar civil issues. There is in addition an important Order

¹ This Rule has been modified by the introduction of the "parish" system, see page 158.

designed to give effect to the scheme for the control of the Chitemene system to which reference has been made above.¹ It is noteworthy also that during the late War, Native Authority Rules were utilized in Abercorn for enforcing the official maxima prices for a number of foodstuffs, which were laid down in detail for different zones in the District.

THE SYSTEM OF NATIVE COURTS

In the judicial organization, each of the Superior Native Authorities constitutes an Appeal Court. The 56 Subordinate Native Authorities hold Courts with original powers, four being of Class C, 18 of Class B, and 34 of Class A. The appeal lies from these Courts to the Appeal Court of the Superior Native Authority within whose jurisdiction they lie, so that in many cases the appeal may be to a Court in a different District, involving a journey which may be 100 miles or more.

There is in the Province no Urban Court, although Councillors of the two Superior Chiefs now hear cases in Abercorn Township. As in other Provinces, the bench of the Courts with original powers normally consists of the Chief and one or two Assessors, the term Assessor being seldom distinguishable from that of Councillor, but other persons are frequently joined as judges on the ground of their experience of native law and custom or their general reputation. Here, as in so many other instances, African custom is elastic and (save perhaps in matters of religious ritual) inclined to reject any standard form of procedure.

The range of the operations of the Native Courts may be gathered from the following figures :

District	Criminal Cases	Civil Cases	Breaches of Native Authority Orders	Total
Mpika (1946) ..	643	122	533	1,298
Chinsali (1946) ..	235	58	198	491
Kasama (1946) ..	764	259	621	1,644
Luwingu (1948) ..	209	544	1,345	2,098
Mporokoso (1946) ..	731	329	550	1,610
Abercorn (1947) ..	550	197	400	1,147
Isoka (1943) ..	303	573	243	1,119

Records of appeals to Native Courts of Appeal are not available, and figures for appeals to District Officers are available for only two Districts, Chinsali recording eight and Mporokoso three. It would seem that so far the system of appeal is by no means well established, and the figures recorded can hardly be taken as indicating the quality of justice administered.

It is stated in the Annual Report for 1947 that in this Province the justice administered in the Native Courts "satisfied the African population," but it would be easier to test the truth of this statement if there were a larger number of educated or progressive natives. It would also afford some further test, if Court inspections carried out on the spot were more frequent, for it appears that in some of the more remote areas they may take place only at intervals of nearly a year.

¹ For these Rules see also page 86 of Studies in African Land Usage in Northern Rhodesia, Rhodes-Livingstone Papers Number 15 (1949).

SECTION VIII

THE URBAN AFRICAN POPULATION

THE URBAN AFRICAN POPULATION

It is mainly in the Copperbelt and Broken Hill mining areas that there are to be found any large bodies of Africans living in circumstances in which their lives are not regulated by tribal conditions. In the four Copperbelt mining centres and Ndola there are estimated to be in all some 140,000 Africans,¹ and in Broken Hill 21,000, but outside these areas the only towns of any size are Lusaka, with an estimated African population of 16,000, Livingstone with 12,000 and Fort Jameson with 4,000.

THE AFRICANS IN THE MINING AREAS

Taking first the Africans in the Copperbelt and Broken Hill mining areas, the labour force shown as employed in mining numbers 31,463.² About four-fifths of this labour, together with its dependants, live in the Native Compounds attached to the mines; the native population at the Roan Antelope mine, for instance, is estimated at about 10,000, and that at N'kana mine about one hundred less. Africans other than those employed on the mines are to be found either in the Native Locations attached to the Mining Townships or in the new "African Towns" which are now being established at a distance of some 4 or 5 miles from these Townships, namely, Twapia (Ndola), Kasombe (Chingola), Chipuluma (Kitwe), Fasenge (Luanshya) and Kansuswa (Mufulira). These African Towns are, however, a more or less recent creation, being intended to provide for the floating population attracted to the neighbourhood of the mines, and living in their vicinity. They are as yet of no great size, Kansuswa, for instance, had in 1947 a population of 622, but Twapia had only 128 houses, and Fasenge 58.

The existence of the large African population in the Copperbelt has given rise to a number of special problems, some of which lie outside the scope of the present survey, and justify only a passing reference. The question of African wages and conditions of employment received much attention in the course of the Inquiries made after the industrial disturbances of 1935 and 1940,³ and it is still likely to provide a recurring cause of unrest. These matters now fall within the purview of the Department of Labour, which has of recent years received an increased personnel for this purpose. Of the many connected problems in this field, perhaps the most important is that relating to the development of a stabilized labour force.

In the statement issued by the Government in 1941 following on the Report of the Inquiry Commission of 1944, it then showed itself unwilling to commit itself to the policy of establishing a permanent industrialized native

¹ This is the estimate given in the Annual Report on African Affairs for 1947. The estimate previously accepted was 103,000.

² Report of Labour Department, 1946, page 11.

³ Report of the Commission of Inquiry into the Copperbelt Disturbances, 1935, issued in 1935, Cmd. 5009, and into the Disturbances of 1940, issued at Lusaka, 1940. See also Report on Labour Conditions in Northern Rhodesia, Sir G. Orde Browne, 1938 (Col. 150) and Report of Commission on the Advancement of Natives in Industry, Lusaka, 1948.

population on the Copperbelt.¹ The Copper Mining Companies, which have had before them the experience gained of the operation of such a policy in the neighbouring Katanga mining area of the Belgian Congo, have been divided on its merits. But whatever may be the views held on the question of policy, the fact remains that the population on the Copper Mines now contains a large proportion of labour which can justly be described as stabilized.² There is a growing proportion of long service labour and of labour with families resident on the mines. It is significant also that an increasing number of the women residing in the compounds are wives united by full native customary rites and not the results of "temporary unions." The element of stabilization is even more obvious at the Broken Hill Mine.³ There is every indication that this tendency will increase, and it is bound to be a factor of importance in dealing with the industrial and social problems of the African population in the Copperbelt.

The question of housing in the Copperbelt Mining Compounds was also one which received much comment at the Inquiries above referred to, and the type of accommodation provided has in the past been adversely criticized by some of those who are acquainted with the provision made in other parts of Africa.⁴ The amount of accommodation has, however, been largely extended of recent years, and if it now justifies criticism, it is mainly because some mining Managements have taken an unduly short term view of the requirements of Africans in the new surroundings of industrial employment. It is inevitable that the growing body of more or less stabilized African labour should, as the consequence of its close contact with the amenities provided for European employees, acquire new standards of living and make higher demands for personal comfort. The provision made for native employees in some of the older Mining Compounds is likely to add to the unrest arising from the contrast between the African and European rates of pay.

For the purpose of the present survey, there are two matters calling for special notice in connection with this large body of African labour and its dependants, namely, the provision made for dealing with criminal and civil justice, and that made for establishing regular means of contact between the mine Management and the Africans in its employ. As regards the former, a description will subsequently be given of the Native Urban Courts which have been for some time established in the Copperbelt and other Urban areas. As regards the latter, it has become customary for the Compound Superintendent or Manager in each mine to consult a body of Tribal Representatives on matters relating to the welfare of the African population on the mine:

This procedure originated in the Roan Antelope mine (Luanshya) in 1929 and was adopted by other mines in 1936 and the following years. The organization would seem to be more complete at the Roan Antelope than elsewhere. At that mine there are 98 Tribal Representatives, elected on a tribal basis by the employees on the mine, and there is in addition a non-tribal representative of a woodcutting gang living about 16 miles from the Compound. They hold regular monthly meetings with the Chief Compound

¹ Statement dated 18 February, 1941.

² The facts are analysed by A. Lynn Saffrey in the Report on Some Aspects of African Living Conditions in the Copperbelt of Northern Rhodesia, 1943.

³ The Economics of Detribalization in Northern Rhodesia, Godfrey Wilson, Rhodes-Livingstone Papers, Numbers 5 and 6, 1941.

⁴ See for instance W. W. Jameson, Report on African Housing in Urban and Rural Areas, 1945.

Manager and the Labour Officer. Discussion is for the most part confined to domestic matters, as distinct from conditions of employment, and the Tribal Representatives also act as arbitrators in petty disputes, with the concurrence of the Compound Manager.

There is in addition a Works Committee consisting of 26 employees, of whom 20 are Boss Boys (nomination being made to the Chief Compound Manager from each branch of the mine) and the rest clerks, artisans or orderlies. This latter body is, however, concerned mainly with questions of wages or conditions of employment, and may in time form the nucleus of an African Trade Union. There are similar bodies also at Mufulira and N'changa mines, though, as already observed, the organization of the Tribal Representatives is less complete in these mines than at the Roan Antelope. Somewhat different opinions have in the past been expressed about the value of the meetings of the Tribal Representatives,¹ but there is no doubt that in their own sphere of interest they discharge a very useful function, and the doubts expressed about their value seem to be based on the belief (for which there can be no foundation) that they can perform the functions usually expected of a Trades Union.

AFRICANS IN THE LOCATIONS AND TOWNSHIPS

Turning now to the African population living either in the Locations attached to the Copperbelt Towns or those attached to Broken Hill, Lusaka and Livingstone Townships, there has for many years existed a serious problem arising from the lack of housing. Numbers of natives were at one time squatting in the neighbourhood of the Copperbelt towns or living in "private locations" in conditions which have more than once been described, with complete justice, as appalling. The Report of the Financial Commission of 1938 called attention to the low standards of accommodation provided in the Government or Local Authority Locations,² and a Commission which reported in 1944,³ described these Locations as presenting on the whole a miserable picture. Only one tenth of the huts had more than one room; all, it said, fell short of the minimum requirements of decency and hygiene when occupied by married people. The Commission was even stronger in its condemnation of the "private locations," and recommended that they should be made subject to stricter regulation under the provisions of a Private Locations Ordinance passed in 1939.⁴

It was largely as a result of the recommendations of this Commission that the Government decided on a housing policy, to be administered by the new Department of Local Government and African Housing created in 1946. A sum of one million pounds has been included in the Northern Rhodesian Development programme, from which loans will be available to Town Authorities for building schemes.⁵ The Commission had recommended in 1944 the immediate erection of a number of temporary houses, and with the assistance of the loans provided a considerable number of such houses were completed in 1946 and 1947, but the major part of these schemes still

¹ See for instance Inquiry on Copperbelt Disturbances, 1940, and C. J. Lewin in *The Colour Bar in the Copperbelt*, South African Institute of Race Relations, Johannesburg, 1941.

² Col. No. 145 (1938), page 203.

³ Report of Commission appointed to enquire into the Administration and Finances of Native Locations in Urban Areas, Lusaka, 1944.

⁴ Ordinance No. 15 of 1939, issued as Cap. 122 of the 1948 Edition of the Laws.

⁵ See Ten-Year Development Plan for Northern Rhodesia, 1947, page 73 ff.

remains for completion.¹ It was also as the result of the recommendations of this Commission that the Copperbelt "African Towns," to which allusion has already been made, were established.

The Locations are in charge of the Local Authorities (namely, the Municipal Councils at Livingstone and Ndola, and the Township Management Boards elsewhere) in the cases where the Locations lie inside the jurisdiction of these Authorities.² They are in direct charge of the District Authorities in cases (as for instance Chilenje, the Government settlement near Lusaka) where they lie outside Local Authority jurisdiction. The Municipal Councils and the Township Management Boards do not as yet contain African members, but they normally have an African Affairs Committee, of which the District Commissioner is a member or Chairman, and the District Commissioner has the advice of an Urban African Advisory Council. Thus, if Luanshya be taken as an example, there exists an Urban Advisory Council of 11 African members, all nominated by the District Commissioner, five being mine employees and the remainder contractors or houseboys. There is also at Luanshya a separate Native Welfare Advisory Committee, on which besides six Europeans there are two Africans, but this body deals with questions of general interest and not exclusively with Urban affairs.

Kitwe, which has an African population estimated at over 30,000, has an Urban Advisory Council which contains five elected Mine Tribal Representatives from the Nkana and Mindolo Mines, and three elected by bodies of the type of the Kitwe African Society. Three are nominated by the District Commissioner.³ At Ndola the District Commissioner has an African Urban Advisory Council of nine members, who are nominated at meetings of various native interests, such as clerks, shop assistants, or artisans. There are comparable bodies elsewhere whose membership is generally the result of some method of informal election. Chilenje, the small African suburb maintained by Government outside the limits of the Lusaka Local Authority (the layout of which is incidentally a model which might well be followed elsewhere) has a regularly elected African Management Committee. It is generally agreed that these bodies are of much use to the District Officers when discussing with the Municipal or Township Management Boards any matters concerning the interests of the African population.

Some of the Local Authorities above referred to maintain African Welfare Officers, and they also employ Superintendents in charge of their Locations. As a rule, the amenities provided for Africans, which now include Town Welfare Centres, are largely financed from the profits of the Beer Halls maintained by the Municipalities or Town Management Boards. There is, it may be added, a considerable variety in the scale of these amenities, some of the local Authorities being apt to stress unduly the fact that the larger part of the African population does not directly contribute to the Township rates. There has been much discussion in Northern Rhodesia (as also in the Union of South Africa and Southern Rhodesia) on the merits of the policy of maintaining Municipal Beer Halls, and there has been some debate also as to the objects on which the proceeds can properly be expended. This point was, in particular,

¹ Report of Department of Local Government and African Housing, 1946.

² Townships are regulated by the Townships Ordinance, 1929 (Cap. 120 of the Laws), Municipalities by the Municipal Corporations Ordinance, 1927, Cap. 119 of the Laws, and Mine Townships by the Mine Townships Ordinance, 1932, Cap. 121 of the Laws.

³ See account of the proceedings of this Advisory Committee by G. C. Clay in *Journal of African Administration*, January, 1949.

discussed at some length in the Report of the Financial Commission in 1938.¹ Other aspects apart, there is no doubt that the very considerable profits from these Beer Halls have made possible the provision of a range of amenities for Africans which might not otherwise have been secured from the Local Authorities.

The "African Towns" are being placed in charge of African Town Councils, constituted under the Township Ordinance (Cap. 120), but they have not yet exercised their powers of rating and it is too early to judge of the manner in which they will develop. It has been felt in many quarters that it would have been preferable to extend the existing Locations to provide for the class for which the new Towns are designed to cater, and it appears very probable that some at least of this class will ultimately find a residence in the Locations, instead of the new African Towns.

There are a number of smaller Townships, in all about 47, which have for the most part been established to provide for the sanitary and other requirements of headquarters stations of Districts. Here the District Commissioner is the Local Authority under the Township Ordinance, and he has in some cases the assistance of a small nominated Township Board, but only in a very few instances has this an African nominated member.

It remains to add that a scheme of compulsory education has been extended to four of the Copperbelt Districts and to the Townships of Broken Hill and Lusaka, the Copperbelt schools being maintained by Government but managed by the Missionary bodies, combined for the purpose as the United Missions to the Copperbelt. The average attendance in November, 1946 (apart from the Beginners Classes) was 5,406. There has also been an interesting development of the Mass Literacy campaign, which was started in the Mindolo Mission and extended to the Mine Compounds at Nkana.²

THE NATIVE URBAN COURTS

Reference has been made above to the Native Urban Courts which provide for the administration of justice in the mixed communities of Africans now living in the Copperbelt or in some of the other towns. These Courts, now nine in number, are a special feature of urban administration in Northern Rhodesia and one that has attracted considerable attention elsewhere. They had their origin in the exceptional needs of the Copperbelt Mining area and towns, where the population includes not only members of a great diversity of tribes in the Protectorate, but also "foreign natives" from Nyasaland, Tanganyika, Angola and the Belgian Congo. The system has subsequently been extended to four towns outside the Copperbelt, namely, Livingstone, Broken Hill, Lusaka and Fort Jameson.

It is best illustrated by the case of the Native Urban Court at Ndola, which was instituted in 1939. The four members (or "Elders") of the Court are nominated (subject to the approval of the District Officer) by Chiefs whose tribes are most largely represented among the residents in the urban area. One, a Luvale from Balovale, is a Chief's son and was a Councillor; the three

¹ Colonial No. 145 (1938), pages 205 following. For an interesting survey of some of the social aspects of the Municipal Beer Hall see Godfrey Wilson, page 31 of No. 6 of the Rhodes-Livingstone Studies already quoted.

² See Annual Report on African Affairs, 1947, page 13, and the article on Mass Literacy in Northern Rhodesia by Mrs. Hope Hay in the Quarterly Bulletin of Fundamental Education, July, 1949.

others (Lunda, Bemba and Chewa) are also sons or nephews of Chiefs. They hold their posts, for which they receive a salary of £4 10s. a month, for four years. There is no permanent President of the Court, but as a rule the Elder whose fellow tribesman's case is before the Court takes the lead. When the Court deals with a "foreign" native, the Location Elders may be asked to send an adviser to assist it.

The composition of other Native Urban Courts follows the same pattern, with some slight variation. There are, for instance, six members of the Court at Kitwe, who serve for five years, and the member with longest service presides. There is the same procedure among the five Elders composing the Court in Luanshya. The Fort Jameson Urban Court has only three members, each of whom represents one of the three principal tribes (Ngoni, Kunda and Chewa) in the District. Owing to pressure of work, it is proposed to divide the Livingstone Urban Court into two sections.

In exercise of their ordinary jurisdiction these Courts possess the powers conferred on Native Courts under the Native Courts Ordinance 10 of 1936. In this capacity they have competence in civil cases where the subject matter in issue is of a value up to £25 and in criminal cases can impose a fine up to £5 or imprisonment up to one month or whipping up to six strokes. But by virtue of the provisions of Government Notices ending with No. 202 of 1947¹ they administer also the Forest Ordinance and the provisions of any Orders or Rules made by a Native Authority under Section 8 or Section 17 of the Native Authority Ordinance relating to the migration of natives from the local limits of such Native Authorities. The Kitwe and Chingola Courts are further empowered to administer the Townships (Control of Natives) Regulations and Regulation 65 of the Employment of Native Regulations. In the exercise of this special jurisdiction an Urban Native Court may impose a fine not exceeding five pounds or imprisonment not exceeding three months and may order an offender to be returned to the area of the Native Authority from which he has migrated. As will be seen, these Courts, like the ordinary Rural Courts, are not empowered to deal with cases relating to breaches of the Native Tax Ordinance. Appeals lie direct from them to the District Officer and not to a Native Court of Appeal.

The very considerable body of civil and criminal issues coming before these Courts is shown by the following figures for the year 1947.

Urban Native Court	Criminal Cases	Civil Cases	Total
Kitwe	622	461	1,083
Mufulira	441	835	1,276
Chingola	593	298	891
Luanshya	233	989	1,222
Ndola	1,236	956	2,192
Fort Jameson	180	280	460
Livingstone (1946) ..	163	592	755
Lusaka	621	383	1,004
Broken Hill	506	641	1,147

¹ Northern Rhodesia Laws, Edition of 1948, Cap. 158.

The information regarding the number of appeals is inadequate, but it appears that in Kitwe there were only six and in Mufulira five appeals; Luanshya had 30 and Ndola 20. Though precise figures are not available, it appears that there were a larger number of appeals from the Livingstone and Lusaka Courts.

There is no doubt as to the reputation for efficiency enjoyed by most of these Courts, particularly those of the Copperbelt Towns. It is of course an advantage that they are all situated at a District headquarters and are therefore open to frequent inspection, and it is also of advantage that a qualified clerk is as a rule available for the maintenance of the Court records. But apart from this, it is clear that they command a position of general respect and that their composition ensures a greater regularity in the dispatch of business than that shown by the majority of the rural Courts.

It has at the same time been noted by a District Officer who has had close acquaintance with the work of one of these Courts that there is a continuous agitation by the larger unrepresented tribes for representation on them, and also by aliens from Nyasaland, the Congo, Angola and Tanganyika. He has observed also that the Urban Court Assessors "are representatives of old established custom," and tend to be considered reactionaries by the more modern and up-to-date members of the Urban Advisory Councils. He recognized, however, the value of the Courts in dealing with certain classes of cases occurring in the Copperbelt.¹

Though from certain points of view the Courts may be regarded as "representative of established custom" it is noteworthy that the members of the Copperbelt Urban Courts have joined in drawing up a set of Rules for their own guidance, designed to meet the needs of natives living in the special conditions of the Copperbelt, in which tribal law is admittedly difficult to apply. Thus, to take one example, these Rules take into consideration the temporary "marriages" common in mining areas, and while treating adultery as a major offence where parties have been united by the customary tribal rites, provide also penalties of a lesser order where parties are living together as the result of a "temporary" union. There would seem to be in these Rules the nucleus of a code which, under proper guidance, might be of value in meeting the special conditions prevailing in industrial areas. It may be added that in the case of one Court (Ndola) proposals are now being considered for the addition of a member of the Court who will represent the more educated element in the African community.

¹ See G. C. Clay in article quoted on page 149.

SECTION IX

THE PROVINCIAL COUNCILS

THE PROVINCIAL COUNCILS

THE system of Provincial Councils owed its inception to the advocacy of a European non-official member of the Legislative Council in 1942.¹ He urged that the system of African Urban Advisory Councils, then limited to the Copperbelt towns, should be extended to all urban areas, to be followed by the inauguration of native Provincial Councils, composed of members elected by tribal Native Authorities and by the African Urban Advisory Councils. Though a small section of the European members of the Legislative Council viewed this proposal with some suspicion, as implying a development which might prejudice the position of the European community, the majority of the members supported the proposal, with the modification that the Councils should be Regional instead of Provincial, so as to allow greater elasticity in the areas they covered.²

By the end of 1943 arrangements were completed for the constitution of Regional Councils in all Provinces except Barotse, where it was considered that the traditional procedure in the Kuta allowed sufficient scope for the expression of public opinion. In accordance with an undertaking given in the Legislative Council in August, 1944, the title Regional Council was changed in 1945 to that of Provincial Council.

Three Councils were originally established in the Northern Province namely, the Councils for the Northern, Central and Western Areas respectively, and one each in the remaining Provinces, excluding Barotseland. Since their first establishment, the three Councils of the Northern Province have been combined as one Council, and the Council of the Western Province has been replaced by three separate Councils, one each for the Eastern, Western and Urban areas respectively. As has been explained, it was originally proposed that the membership of the Councils should be provided from two sources, the "rural" members representing the Native Authorities, and the "urban" members consisting of representatives elected by the Urban Advisory Councils. Since, however, some of the Provinces have no Townships with Urban Advisory Councils, the urban membership is provided in their case by nominees of local African Associations. The rural members are of course largely in the majority. Thus taking as an example the Central Areas Council of the Northern Province, the session of March, 1947, was attended by eight Chiefs or their representatives, and by five persons representing the following Associations, the Chinsali, Luwingu, Shiwa, Ngandu, Mpika Welfare Associations and the Kasama African Institute. In the Southern Province, on the other hand, the rural members consisted of nine Native Authorities or their representatives, and the urban of two representatives of the Urban Advisory Councils.

The rural representatives are chosen at meetings which are sometimes spoken of as "elections," but as a rule provide for a less formal manner of selection than that term would imply. The representatives of the Native

¹ Legislative Council Debates, 17 September, 1942, page 146-168.

² J. W. Davidson, The Northern Rhodesian Legislative Council, 1947, page 80.

Authorities are in the great majority of cases Chiefs, but are in a few instances commoners. The urban members are, in the case of representatives of the Urban Advisory Councils, chosen by election, but there is no clear indication as to the manner in which the nominees of the African Associations are selected. These are in any case informally constituted bodies, often small in membership, and of very different grades of standing. Government employees are largely represented on these Associations, but they are not eligible for nomination to the Provincial Councils.

The Provincial Commissioner usually presides at the meetings of the Provincial Councils, and they are attended by officers representing various Government Departments. A study of some of their proceedings shows that they discuss a wide range of subjects, which is by no means limited to purely local affairs. The administration has placed on the Agenda a few matters, such as the amendments proposed in the law relating to witchcraft, or the language to be used in the official newspaper "Mutende"; but the greater part of the Agenda is occupied by discussion on subjects raised by the members themselves, and most notably by the urban members. The latter have from the first taken the most prominent part in the debates. It is generally agreed that the Councils have proved of value as providing an opportunity for discussions which if not always constructive have nevertheless been informative. They have a special value as a means by which Administrative and Departmental Officers can explain points arising in connection with Government policy or action taken in the course of administration.

THE AFRICAN REPRESENTATIVE COUNCIL

The establishment of the African Representative Council was foreshadowed in a statement made by the Secretary of State in May, 1945, when, in addressing the House of Commons on the constitutional development of the Protectorate, he stated that when the Provincial Councils had gained sufficient experience, an "African Central Council" would be set up consisting of delegates from these Councils. He added that it was the intention that in due course African members from this Central Council should sit on the Legislative Council. From the first, therefore, it was projected that the establishment of the Central Council would mark a stage in the political developments contemplated for the Protectorate. Considerable discussion took place between the Government and the unofficial members of the Legislative Council as to the lines on which the new body should be constituted, and as a result of these discussions the Council was established, under the designation of the African Representative Council, in 1946. It was to consist of 29 members, with the addition of the Secretary for Native Affairs as President, and was to hold at least one session every year. It was agreed that it should consist entirely of Africans, except the President, but that its contact with the Legislative Council should be maintained through the attendance of the unofficial members of the Legislative Council nominated to represent African interests.¹

The 29 members consist of four members from the Barotse Province, nominated by the Paramount in consultation with the Provincial Commissioner, four each from the Central, Eastern and Northern Provinces, three from the Southern, and ten from the Western Province, all, with the exception of the

¹ Governor's Address at opening session, 14 November, 1946.

members from Barotseland, being elected "from among and by the delegates at meetings of the African Provincial Councils."¹

The proceedings of the African Representative Council have been printed, and show that though a part of the time of the Council has been occupied by interrogations directed to the Administration, to which the President has replied, the remainder has been given up to "motions" put forward by members. Some of the interrogations have been somewhat naive, such as that which sought an answer to the query "What kind of Africa is Government driving at?" But this was exceptional, and on the whole the debates have shown a creditable measure both of intelligence and restraint, even when discussions have involved matters in which racial feelings might be involved, such as that relating to marriages between European men and African women, or the condition of Northern Rhodesian labour in Southern Rhodesia. So far the debates have been conducted in English, and this has obviously handicapped some of the rural representatives, but the Standing Rules have been modified to permit of a member speaking in his own language or in English as he prefers.

It was agreed in 1946 that from 1948 the African Representative Council should elect two of its members who would then form part of the four members of the Legislative Council nominated by the Governor to represent African interests.²

¹ Constitution as printed in the proceedings of the Third Session of the Council, 1948.

² General Notice 595 in N. Rhodesia Gazette, 6 September, 1946.

SECTION X

AFRICAN LAND PROBLEMS

SECTION I has given in some detail an account of the change in land policy leading to the measures embodied in the Order in Council of 1947, of which the general effect has been to set aside as Native Trust Lands large areas which had formerly been classed as Crown Lands.¹ It had become obvious that where previous policy had involved the restriction of tribesmen to their Native Reserves (including in some instances their removal from Crown Lands) the result had in more than one case been to cause a serious congestion in the Reserve, with a very grave deterioration in the condition of the soil and pasturage.² But the opening up of the Native Trust Lands and the re-settlement in them of natives from the Reserves has made a substantial change in this respect. It is true that the Report of a Reconnaissance Survey of the Mazabuka District in 1945 expressed the view that the lands now available for the Tonga are inadequate in relation to their traditional agriculture and their cattle population, but the accuracy of this observation is open to question, and in any case the circumstances of the Tonga are somewhat exceptional.

Looking at the Protectorate as a whole, there should now be ample land available for the native population formerly residing in the Reserves. The problem which to-day faces the Administration is to ensure a change in the native system of land usage which will prevent a deterioration in the Trust Lands similar to that which has marked some of the Reserves. In some instances, this will need substantial expenditure by Government in the provision of water supplies, and it certainly cannot be achieved without a considerable increase in the now inadequate staff of the Agricultural Department. But it will also require the active co-operation of the Native Authorities, and it has been shown in previous Sections that in a number of cases their attitude has hitherto been marked by apathy or something worse. A certain number of Rules and Orders have been made prescribing contour ploughing or other measures for soil conservation; but only in rare instances is there evidence of any activity shown by Native Authorities in securing observance of these regulations. In one respect only can it be said that the factors making for soil conservation are more favourable than in some of the neighbouring territories. Over large areas the absence of a pastoral tradition, combined with the prevalence of fly, has restricted the number of cattle maintained by Africans, The absence of cattle is indeed almost as significant a feature of many Districts of Northern Rhodesia as the low density of the population.

THE ACQUISITION OF HOLDINGS ON INDIVIDUAL TENURE

In the discussions which led up to the issue of the 1947 Order in Council reference was made to the desirability of allowing Africans to acquire holdings of land on individual tenure. The matter constantly recurs in the proceedings

¹ See page 77.

² See references in *Studies in African Land Usage in Northern Rhodesia*, W. Allan, Rhodes-Livingstone Papers, Number 15 (1949).

of the Land Commission of 1946, which recorded much evidence of the desire expressed by Africans themselves on the subject¹. This desire came from two sources, the industrial employee, who sought to have a "small holding" near his industrial centre, and the educated African who hoped to see Africans holding farms on the same terms as Europeans. Except in one case, no farm lands have as yet been given to Africans on long lease terms, but they hold in other ways certain areas of land on individual tenure.

Near Livingstone there are about 20 plots of Crown Land held on annual leases of £3 for a plot of 10 to 15 acres. They are used for market gardening but are not very popular, and in 1948 six plots were vacant. In Kalomo District an African has a holding on Crown Land, amounting to about 100 acres, on a light rental. In Mazabuka District there are on the Crown Lands near Rusholme six African farms varying from 167 to 1,385 acres in area, held on annual rent at a rate of 3 pence an acre. This land has now become Native Trust Land and the question of its tenure has to be decided. In the Mujiga area of Mazabuka District there are 16 individual farms held by Matabele immigrants, the average area being 20 to 200 acres. The occupiers pay rental, but their legal position still remains to be determined. Near Broken Hill Township there are some 900 five-acre allotments held by Africans on lands lying within the Mining Concession. A number of these have been taken up by mine employees and others for market gardens and they appear to be fully cultivated.

There are 41 plots on Crown Land near the Chunga River (eight miles out of Lusaka) held on rental by Africans. They average five to ten acres, but are too small for farms and too far from Lusaka to be worked profitably as market gardens.² The rent, 10s. an acre, appears to be high. In Kasama District there are three individual allotments of land which has now become Native Trust Land, and in this case also the terms on which they are to be held will need to be determined.

In Chinsali District there is an experiment of a novel order. About 21 farms of roughly 40 acres each have been given by the local Native Authorities on individual tenure to ex-askaris, teachers, or artisans. With the guidance of Agricultural Officers some of these have done well on the land, but nothing has been determined as to the rights possessed by the Native Authorities to remove occupiers who do not make a proper use of their holdings, though the opinions so far expressed by the Native Authorities seem to favour the view that land once allotted cannot be resumed. Finally in Mporokoso District the Native Authorities have allowed seven persons to occupy individual holdings of about 40 acres each on terms which at present seem vague, and there is here the same difficulty regarding the right of the Native Authority to terminate the occupancy if the land is not properly used.

There is therefore some practical evidence of the desire of Africans to acquire land in individual holdings or farms. But it is obviously necessary to exercise some caution in allowing Africans to occupy plots of any considerable size on long term leases. Experience in the Union of South Africa and in Southern Rhodesia has shown the difficulty of ensuring that such land is applied to beneficial use and continues to be farmed in conditions which will avoid soil deterioration. That is, of course, an observation which applies equally to land occupied as farms by Europeans, though in their case there

¹ Report 1946. See for instance pages 5, 13, 45, 53.

² See on this point Land Commission Report, 1946, page 46.

is some difference, since a proportion at least of the Europeans are likely to put down a good deal of capital and to exercise some skill in the management of the land, a feature which has so far been absent in local African farming.

PROPOSED SCHEME FOR AFRICAN PEASANT FARMING

In the desire expressed by educated and progressive Africans for individual holdings the motive has frequently been to escape from the incidence of tribal custom. Hopes have been held in some quarters that this object could be satisfied by the introduction of a system of "peasant farming," under charge of the Native Authorities and with the co-operation of the Agriculture Department. The subject was discussed at the Administrative Conference held in 1949. It was then suggested that Native Authorities should grant leases of tribal lands to individuals who would cultivate the land in accordance with the directions of the Agricultural Department, and that these Authorities should be responsible for making improvements such as dwelling houses, irrigation furrows, or access roads. If required, the Government would stump and clear the land, and would charge not more than £3 10s. per acre, which would be repayable over fixed periods, at not more than £15 per annum. The Government would also provide the farmers in any farm group with a standard set of implements, the cost of which would be refunded in a given time, and Government would lend 60 head of cattle to a group at a rent of £7 10s. per annum.

The Conference accepted this scheme in principle, and recommended the establishment of two large blocks of African farms, one in the Bangweulu Basin and upper Luapula Valley and the other in a wide belt running north and south consisting of Western Ndola, Eastern Solwezi and Kasempa District, the Lukanga swamp area, and Mumbwa and Namwala Districts. It was also recommended that the minimum number of farmers in a unit should be 10, but that a unit should not necessarily be debarred if of smaller numbers, and that the constitution of each group should be according to the wishes of the people concerned. It recommended further that holdings should be individual and not collective. No information is as yet available as to the extent to which effect has been given to this scheme.

THE PARISH SYSTEM

The discussions which have from time to time taken place regarding what is known as the "parish" system, though originating in administrative requirements, have also a bearing on problems arising in connection with the use of the native lands. From an early date the Administration had sought to secure a greater measure of administrative control by preventing the dispersal of natives into new villages or scattered units of cultivation. In 1938 it was laid down that villages should consist of not less than 10 taxpaying natives, living within an area not greater than approximately a square mile; all persons were to be registered by villages, and a man could not leave his village when once registered there. But this scheme proved to involve grave difficulties, apart from those involved in registration. Owing to the prevailing system of shifting cultivation, everyone in the village area was required to move if the parent village moved, and among other things, this militated against the erection of houses of a permanent character. The position became

additionally difficult with the return of soldiers from the War, and in 1945 the system was finally abandoned.

It was sought to find a more workable alternative in the substitution of a "parish" system, and in November, 1945, Provincial Commissioners were instructed to work out a scheme under which villages were to be grouped in "parishes" and taxpayers registered by "parishes" instead of villages. As the system was designed eventually to encourage social and economic development, parish boundaries were to be drawn with due regard to kinship ties and natural features. Within the boundaries of a parish a man might move from village to village at will or, if he preferred, live on his own, provided he fulfilled a minimum building requirement. For all such movements within the parish no permission would be required, but if a man wished to move out of his parish to another he would require the usual permission and must secure registration in his new parish.

The progress made in implementing the new scheme has been very unequal. It would appear from reports made in 1949 that in the Northern Province the parishes had for the most part been demarcated and tax registers readjusted. There had been practically no development in this direction in Barotseland or the Central Province. Demarcation was proceeding in the Western Province, but in the Eastern Province proceedings has been confined to the re-settlement areas. It is clear moreover that there has been some local opposition to the scheme, owing to the fears of village headmen that it may lead to a reduction of their authority. The Native Authorities have not appreciated its merits, particularly as it has not been made clear what authority will be in charge of a parish. The scheme as originally outlined contemplated the establishment of Parish Councils, which would eventually discharge the duties normally carried out by village headmen, and it is possible that if effect can be given to this feature of the scheme, it may make a wider appeal as a new element in the Native Authority organization.

STUDIES MADE OF NATIVE LAND TENURES

Where residents of the existing Reserves are resettled on new Native Trust Lands they bring with them the traditional system of land tenure of their tribe. A number of studies have been made of the systems of native land tenure prevailing in Northern Rhodesia, to which a reference is given in the note below.¹ The most complete of these studies are those which relate to the land tenure systems of the Lozi and the Tonga, but there are many areas in which no such studies have been made and, as the Land Commission of 1943 observed, our knowledge on the subject of some of the native tenures is far

¹ E. W. Smith and A. M. Dale, *The Ila-Speaking Peoples of Northern Rhodesia*; Macmillan, 1920; C. M. Doke, *The Lambas of Northern Rhodesia*, Harrop, 1921; A. I. Richards, *Land Labour and Diet in Northern Rhodesia*, O.U.P., 1939; ditto, *The Political System of the Bemba Tribe in North-Eastern Rhodesia* (*African Political Systems*, M. Fortes and E. Evans Pritchard, O.U.P., 1942); M. Gluckman, *The Economy of the Central Barotse Plain, Essays on Lozi Land and Royal Property, African Land Tenure*, being Numbers 7 (1941) and 10 (1943) of the Rhodes-Livingstone Institute Papers, and Number 3 of the Institute's Journal, 1945; R. H. Fraser, *Land Settlement in the Eastern Province of Northern Rhodesia*, Rhodes-Livingstone Institute Journal, Number 3, 1945; W. Allan, *African Land Usage*, Rhodes-Livingstone Institute Journal, Number 3, 1945; *A Reconnaissance Survey of Land Holding and Land Usage among the Plateau Tonga of Mazabuka District*, Rhodes-Livingstone Papers, Number 14, 1948. C. K. Meek, *Land Law and Custom in the Colonies*, 1946; *Studies in African Land Usage in Northern Rhodesia*, W. Allan, Rhodes-Livingstone Papers, Number 15 (1949).

from systematic. There is the additional disadvantage that we are very rarely able here to refer to the decisions of Native Courts, which in some other territories form the best authority for a study of modern changes in systems of native land tenure.

For our present purpose, there are two points regarding native land tenures which call for special attention : (a) the extent to which traditional custom is being modified by factors such as the growth of economic crops, or by the pressure of population on the soil ; and (b) the extent to which the powers conferred on Native Authorities under the Native Authority Ordinance have in practice been utilized for modifying local systems of land tenure.

CHANGES IN PREVIOUS LAND CUSTOM

As regards the first point, indigenous land custom in Northern Rhodesia has been very little affected by factors such as those mentioned. There are for instance no indications that land has acquired a commercial value, as evidenced by the sale of land rights or by the practice of leasing or letting on cash or produce rentals. There are, of course, instances of the transfer of land among relatives or of the loaning of land, but these are parts of normal Bantu custom. It is in this connection interesting to note the general insistence on the inviolacy of the principle that a family is entitled to return to land which even the most remote of its ancestors had occupied, so long as any member of the family remains. The only recognized departure from this principle seems to be that embodied in what is known as the Law of Muliu in Barotseland, which prevents a man making a claim to land when his claim is based on circumstances arising prior to the Makololo invasion.

There was at one time a feeling expressed in agricultural and other Reports that in some areas, and notably in Mazabuka District, the growing use of the plough and the premium placed on the production of maize had enabled the more enterprising Tonga cultivators to acquire possession of large areas of land at the expense of their fellow tribesmen. This point was examined with some care in the Report of the Reconnaissance Survey of the Plateau Tonga of Mazabuka District in 1945, and also by the Native Land Tenure Committee which published a Report dealing with Mazabuka District in 1946. The general conclusion of the latter was that though a small proportion of the Tonga community has occupied comparatively large acreages, this did not as a matter of fact either transgress normal Tonga custom or encroach on the rights of other tribesmen. Though this may be true, it must be remembered that previous Tonga land custom was based on a tradition of the existence of an unlimited supply of land, and that the reduced areas now available to the Tonga owing to alienation to Europeans have modified that position. There is evidence to show that the large acreage occupied by the more enterprising Tonga farmers has forced other members of the tribe to cultivate their own holdings without regard to the period necessary for the recuperation of the land, and this has resulted in a noticeable reduction in their productivity.

THE CONTROL OF LAND RIGHTS BY NATIVE AUTHORITIES

As regards the use of powers conferred by the Native Authority Ordinance, the Native Authorities as such do not appear to have intervened to modify or control the customary system of land tenure. It is, of course, true that they

have, as has been seen, passed a considerable number of Rules or Orders which affect the use made of land. Instances of this nature are to be found in the Chitemene Rules in force in Mporokoso,¹ or Rules or Orders elsewhere which limit the size of gardens, the practice of tree cutting, or the reservation of grazing areas.² There are again the Rules which have restricted the establishment of new villages, or which regulate the admission of "stranger" natives and their occupation of tribal lands. Many of these Rules and Orders may in fact constitute a departure from original custom, but they refer rather to the use made of land than to the tenures under which land is held.

If the Native Authorities exercise control over the allocation of land it is rather in their capacity as Chiefs than in the position they occupy as Native Authorities. The position occupied by Chiefs in this respect varies greatly in different tribal areas. The position of the Paramount in Barotseland is somewhat exceptional, since there it is the accepted tradition that all land is held on interminable loan from the Paramount. In one sense land in Barotseland is highly individualized, particularly as regards the mounds (mazulu) and the moist margin soil of the plain (sishanjo) which form a prominent feature in Lozi landed economy, but the tradition persists that land is only given on loan, though the loan cannot be terminated so long as any member of the family survives. Local opinion seems insistent that no regulation would be tolerated which fixed a definite period at the end of which non-occupation of the land would extinguish the rights of a family to return to its occupation. In practice any request for a plot of unoccupied land would in the first place be referred to the silalo Induna, who in turn might refer it to the District Head.

In most other areas the question of the allocation of unoccupied land seems for the most part to be dealt with by the headmen who represent the leading persons in kinship groups, though there are instances in which other authorities having traditional functions in regard to the land may intervene, such as the Sikatongo in Kalomo, who appear to be similar to the Eni Dziko in the Central Province of Nyasaland.³ In the highly individualized and equalitarian system of the Tonga, the Chief as such clearly has little authority in the matter of land, and it may be doubted whether he can even be regarded as the repository of tribal tradition for the purpose of settling land disputes.

These observations refer to the present position, but it seems clear that questions of land tenure may in future assume greater significance, especially if the proposals for the development of "peasant farms" are carried out, or again if the Government proceeds with the scheme of Development Centres, one of which has been projected in the Mongu-Lealui District of Barotseland. This reinforces the need for a more careful and detailed survey of land custom among the various tribes of the Protectorate.

¹ See page 145.

² See page 114 of the Reconnaissance Survey of the Plateau Tonga of Mazabuka District previously quoted.

³ See Chapter VI, page 64.

SECTION XI

CONCLUDING NOTE

IN the opening section of this Chapter some observations were made on the influence which the development of European interests has exercised on the policy of the Protectorate in regard to native affairs. These observations referred in particular to issues connected with land policy, and it might seem that in this respect the influence of European interests had been less significant than in Kenya Colony, which affords the nearest analogy to Northern Rhodesia among the British colonial territories in East and Central Africa. But the effect of the land policy pursued for a considerable period in Northern Rhodesia was in fact greater than might at first sight appear. In Kenya only a limited number of the tribes were actually affected by the reservation of the Highlands for European occupation, but in Northern Rhodesia the effect was more widespread. It is of course true that the main obstacle to the development of the indigenous organizations as agencies of local government lay in the weaknesses to which attention has been drawn in an early part of this survey,¹ but their development was also impeded by a land policy which restricted large numbers of natives to Reserves which were often inadequate, with the consequence that they had to seek a livelihood in Crown lands where they had no rights, or to go abroad as wage earners.

This position was remedied by the change of system finally embodied in the Order in Council of 1947, but a study of the influence of European interests in this particular respect suggests a further observation, of a more general character. The two Rhodesias form the meeting ground of two different views on the objectives of native policy, that namely, which is current in the Union of South Africa and (in a less clearly pronounced form) in Southern Rhodesia, and that which is commonly referred to in the local Legislatures as the "Colonial Office" policy in native affairs. It is these differences in outlook which in the view of the Royal Commission of 1939 constituted one of the reasons for questioning the advisability of recommending the immediate federation of Southern and Northern Rhodesia.² It would be outside the scope of this survey to explore the extent of the divergence in objective or to canvass its bearing on the controversial issue of Federation. But it is pertinent to call attention to one point which involves a question of fact rather than of principle.

THE EXPENDITURE ON SERVICES FOR AFRICANS IN THE TWO RHODESIAS

In the many discussions on the subject of Federation which followed the issue of the Report of the Royal Commission, attention has frequently been drawn to the passages in its Report which compared the respective expenditure of the two territories on social and other services for Africans. The comparison was at that period undoubtedly in favour of Southern Rhodesia, but since then

¹ See pages 82-84.

² Report of the Rhodesia-Nyasaland Royal Commission, Cmd. 5949 (1939), page 216.

the disparity has been materially reduced. Thus if we take the expenditure on Native Education, the sum provided by Southern Rhodesia in 1938 was £89,539 and by Northern Rhodesia only £44,223. The appropriation made by Southern Rhodesia for 1948-49 was £556,424, and that by Northern Rhodesia £414,840. It is less easy to compare the provision for Health services for Africans, since Health expenditure incurred specifically for Africans is not shown separately in the accounts, but the total expenditure on the Health service, which in 1938 was £250,592 in Southern Rhodesia against £101,178 in Northern Rhodesia, amounted in 1949 to £1,196,141 in the former and £461,450 in the latter.

It should be added that the Southern Rhodesia budget showed in 1949 an appropriation of £504,186 for Native Affairs (including Native Welfare), but the difference in budgetting procedure makes it difficult to estimate the amount provided for comparable purposes in Northern Rhodesia. In the 1949 budget of the Protectorate, the items of African Administration and Provincial Administration together accounted for £464,090, but there was also a provision of £1,185,890 for Development and Welfare Schemes, a large number of which specifically concerned Africans.¹ In dealing with these figures, it should be remembered that the total revenue budget of Southern Rhodesia, apart from credits from loan funds, amounted to £12,700,414 in 1948 and that of Northern Rhodesia to £6,829,469.

There are certain features in the regulation of African affairs in which the procedure is similar, though not identical, in the two Rhodesias. They share the system by which Africans require a permit allowing them a definite period within which to secure employment in the Township areas, and when resident there they are confined to the African Locations attached to the Townships. In the larger Townships an African, unless he secures exemption from the regulation, cannot move about after 9 o'clock at night without a pass from his employer. On the other hand, the operation of the Northern Rhodesia Native Registration Ordinance, under which every non-exempted African must carry a registration certificate, practically equivalent to a pass, is not of general application but is applied only to certain prescribed areas, namely, the Copperbelt and the Railway area.

In Northern Rhodesia the attitude of the European Trade Unions in respect of the restrictions to be placed on the employment of Africans in the Mines and on the Railway resembles that of the Unions in Southern Rhodesia. There is, however, one important difference. In Northern Rhodesia, this attitude has not been endorsed by Government legislation, of the type of the Industrial Conciliation Act of Southern Rhodesia, and the Protectorate Government has maintained the refusal, which it first made in 1933, to accept the demand of certain of the Unions for the insertion of a "white" labour clause in all Government contracts. There is no "colour bar" in the employment of Africans in the Government services, and generally speaking, the field for the employment of Africans as artisans, skilled labour or clerks is much wider than in Southern Rhodesia.

These features in the current practice of Northern Rhodesia have their significance, though they are not perhaps fundamental, and the most distinctive features in the policy of the Protectorate are actually to be found in the opportunities afforded to Africans by the political institutions of the country, and in the effort made to develop a system of African local government through the

¹ See pages 107 to 126 of Approved Estimates for 1949.

use of the Native Authorities. It will be understood that in speaking here of Protectorate policy, it is only possible to deal with the policy of the Government, as seen in its practical application. It is not possible to extend this study by discussing the views expressed from time to time by members of the European community of the Protectorate in the Legislative Council or in the newspapers.¹

THE RESULTS ACHIEVED BY THE NATIVE AUTHORITY SYSTEM

Reference will be made in subsequent paragraphs to the form taken by the political institutions of the Protectorate,² but it is important to attempt here some assessment of the measure of success achieved in the use made of the Native Authorities as organs of local government. Of recent years the Protectorate Government has shown a notable activity in promoting this feature of native policy. This has been manifested, among other ways, by the issue of a considerable number of Government Circulars conveying guidance to local officers in matters concerning native administration, by convoking regular meetings of Provincial Commissioners to consider problems arising in native affairs, by the appointment of the various Commissions to examine the possibilities provided by the Native Trust lands for the resettlement of the natives of the Reserves, and by the institution of the Native Provincial Councils.

It must be admitted on the other hand that the material provided by the indigenous organizations has proved to be less favourable than in some of the other territories of Eastern or Central Africa. To this generalization there is one exception, that of Barotseland. It is true that there the Paramount and Kuta have still to surmount the domestic difficulties caused by the need for adjusting the relations between the Lozi ruling class and the other communities now within the Barotse jurisdiction.³ Barotseland has still to find the personnel qualified to fill the executive or departmental posts which form part of its revised system of administration, and this must clearly await the expansion of local educational facilities. But Barotseland nevertheless presents the picture of a centralized system of authority, with a definite delegation of local functions, and is showing itself to be capable of adjustment to the requirements of a more progressive form of local government. It has the further advantage that the Paramount and Kuta can rely on the existence of a general concern among the people for the future of Barotseland as a national unit.

If one turns to another community, that of the Bemba, which from its numbers and past tradition might claim a somewhat similar position within its own area, the picture is far less favourable. It is not necessarily impossible to adjust to modern requirements an organization which rests largely on a basis of magico-religious sanctions, but the obstacles are clearly many. Not the least of them is the conservatism of the custodians of the traditional ritual who now form the principal Councillors of the Paramount Chief, a conservatism which must inevitably be resistant to change, since every change means a reduction in their own customary authority.

Elsewhere there are, as the preceding Sections of this Chapter have shown, certain instances in which Senior or Paramount Chiefs have shown competence and a sense of personal responsibility as Native Authorities, and there have

¹ For a summary of views expressed in the Legislative Council, especially in regard to the implications of the term, "the paramountcy of native interests," see J. W. Davidson, *The Northern Rhodesia Legislative Council, 1947*, pages 67 to 90.

² Page 166.

³ See pages 92 and 101.

indeed been two or three outstanding examples in this respect. But they are exceptions, and the general picture does not encourage the hope of a rapid or substantial advance over the results so far achieved. It is the District Officer who is still the prime mover in such progress as is made.

It is clear that much of the backwardness in this respect is due to the relatively poor economic circumstances of the mass of the rural population, for Africa illustrates at every turn the intimacy of the relation between material advance and the faculty for individual or communal progress. The lack of resources has moreover a direct reaction on the potentialities of the Native Authorities as effective organs of local government. The total revenues of the Native Treasuries as shown in the previous Sections amounted only to £119,443, and the proportion expended on administrative and similar charges was in most Provinces well over 70 per cent. of the total expenditure. The provision available for local services to the community was thus small, and was insufficient to encourage the more progressive members of the rural community to take a part in the management of local affairs. An enquiry was initiated in 1949 designed to provide a clearer definition of the respective functions of the Government and the Native Authorities in the provision of local services. Its recommendations are valuable, but their value is impaired by the low scale available in the Native Treasuries.¹

The reorganization of the Native Authority system being undertaken in 1948² was in the main an adaptation of the practice which had been established in Barotse Province. It promises many advantages, not the least of which is the possibility of providing, through the reduction of certain traditional posts of Councillor or Adviser, the funds required for the payment of adequate salaries to "working" Councillors possessing some education and experience. It goes without saying, that there will be many areas in which it will be difficult in present circumstances to find men capable of filling these posts, and it is an obstacle which is likely to be more difficult to surmount than the opposition offered by sub-chiefs or traditional placemen. While the scheme has a precedent in Barotseland, it will of course constitute elsewhere a considerable departure from traditional practice, but though that consideration may suggest some caution in making the change, it is not a decisive objection. The viability of adjustments made in the Native Authority system depends on the measure to which they can gain general acceptance, not on the degree of their adherence to tradition.

DEVELOPMENTS IN THE COPPERBELT AND NEIGHBOURING AREAS

These observations refer in the main to developments in the rural areas, which up to a few years ago seemed to present the most serious problem in native administration. But the problems presented by the large aggregation of natives in the Copperbelt and the neighbouring areas now demand an equal share of the attention of the Government. There was at one time a tendency to regard the population in these areas as being a more or less fortuitous accretion on the Mines, consisting mainly of dependants of mine workers or natives seeking employment or engaged in supplying the needs (often of an illicit nature) of the residents of the Compounds.

¹ Report of the Financial Relationship Committee; Lusaka; 1949. It is regretted that this Report did not become available in time for the material to be used in the present survey.

² Page 84.

There may at the time have been some ground for this view; but the position has now altered. The labour in the Mine Compounds forms of course a class by itself, for the welfare and amenities of which the Companies are primarily responsible. But there is now in these areas a numerous African population which if not fully urbanized has at all events little interest in the tribal form of life and no intention of returning to it. Its own standard of life is increasing, and it is affected in its social outlook by evidence of the high standards of accommodation and amenities enjoyed by the European employees in the Mines. Not all of these, it must be remembered, are skilled "tradesmen" or operatives; there are a certain number who are engaged on work which admittedly can be and indeed often is discharged elsewhere by Africans.¹

It is clear that the requirements of the class of Africans referred to cannot be satisfied by the measures likely to be taken by the Local Authorities to whom reference has been made in Section VIII of this Chapter,² the extent of which at present is largely determined by the revenue derived from the profits of the Beer Halls. The Protectorate Government has already recognized its obligations by the large provision it has made in its Development programme for the extension of African housing accommodation.³ But apart from other measures, it is clear that the Government will have to consider the claims of this class to direct representation on the Boards of the Local Authorities, a claim which, it will be recalled, has already been met in the urban centres of Kenya Colony. This may involve making provision (preferably by nomination) for the inclusion of African members on the Boards of the Local Authorities, which are now constituted by election.

THE LEGISLATIVE AND EXECUTIVE COUNCILS

Turning now to the participation of Africans in the political institutions of the Protectorate, it may be remarked that the European Members of the Legislative Council have not during recent years shown themselves opposed to the direct representation of Africans in the Legislature. Some of them indeed have openly welcomed it. But there has been a small section which has continued to view this with suspicion, not so much on grounds of principle, as from the apprehension that Africans may be assisted through the extension of political rights to encroach on fields of employment now occupied by Europeans. As already shown, however, the Protectorate Government has since 1948 made provision for the inclusion of two Africans in the membership of the Legislative Council.⁴

This body as now constituted contains 24 members, namely a Speaker (an unofficial member nominated by the Governor), six ex-officio members (prescribed by office), three nominated official members (normally heads of Protectorate Departments), two nominated unofficial members, representing the interests of the African community, ten elected members, and two African members.⁵ The ten elected members are elected on a franchise qualification which in effect confines the electorate to the European community, and all are in fact Europeans. To this extent therefore Africans as such are not enfranchised. The two unofficial members nominated to represent African

¹ See Report on the Copperbelt Disturbances of 1940, Cmd. 5009 (1941).

² See page 149.

³ Page 148.

⁴ See page 155.

⁵ N. Rhodesia (Legislative Council) Order in Council, 24th February, 1948.

interests are at present Europeans; in practice one has always been a member of one of the major Missionary organizations. The two African members are nominated by the Governor from the names submitted by the African Representative Council from among its members, and this implies that they cannot be in the employment of the Government.¹ The Legislative Council has thus a substantial majority of elected or nominated unofficial members.

There is no African representative on the Executive Council. It at present consists of the Governor as President and twelve members. Six of these are ex-officio, among them being the Secretary for Native Affairs; one is a nominated official, and five are unofficials, one of the latter being one of the two unofficial members of the Legislative Council representing African interests. Northern Rhodesia has adopted the system by which members of the Executive Council are in charge of Departments or groups of Departments, and out of the five unofficial members of the Council, one is in charge of the Department of Agriculture and National Resources, and one in charge of the Department of Health and Local Government. It is a somewhat unusual feature of this constitution that the two members holding these posts remain unofficials, and can retain their posts only so long as they remain members of the Legislative Council.

THE DEPARTMENT OF AFRICAN AFFAIRS

The Secretary for Native Affairs is, as explained above, an ex-officio member of the Executive Council, but there is not a separate Department of African Affairs. The post of Secretary of Native Affairs existed previous to 1934, when it was abolished on the ground that the creation of the posts of Provincial Commissioner had made it unnecessary. The revival of this post and the subsequent creation of the posts of Commissioner for Native Development and Judicial Adviser are important measures which may lead to further steps in the organization of the procedure for dealing with African Affairs. It is to be hoped that this will include also the appointment of an officer with special experience of native land custom and systems of land holding.

THE AFRICAN ASSOCIATIONS

Africans in Northern Rhodesia have no Association which has so definite a political objective or the same influence as some of those in Kenya Colony or Nyasaland.² There are in the Copperbelt and Railway line areas a number of Associations or Societies, such for example as the Chingola Welfare Association, the Kitwe African Society, the Luanshya Welfare and Recreational Society, and the Ndola Shop Assistants, Municipal Employees, and Civil Servants Associations. But all these are of limited scope, and are not political in their objective. Reference has been made in the Section dealing with the membership of the Provincial Councils to some of the Associations or Societies existing in the rural areas,³ but there are a large number of others. Many of these are concerned with purely sectional interests, such as the Civil Servants Associations of Mpika, Lusaka, or Broken Hill, or the African Traders Associations of Chinsali and Mazabuka, or the Farmers' Association of these two Districts, or the Producers' Society of Petauke. In a number of the Welfare

¹ Page 155.

² Chapter II, page 216-7, Chapter V, page 73.

³ Page 153.

Associations the leading members are Government employees, but in no case do these bodies seem to have a large membership or any considerable standing.

The Watch Tower movement has at various times shown the same activity in Northern Rhodesia as in Nyasaland.¹ It made itself conspicuous in its opposition to recruitment in the War of 1914-18, and in 1925 one of its preachers persuaded over 170 persons to drown themselves, as the shortest way to eternal life. In recent years District Officers have remarked on the survival of the movement, but do not speak of it as active, or as having any marked political influence.

¹ Chapter V, page 73.